



## Against the wind

### *Tokelau 2001–2006*

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#### **Abstract**

In February 2006 the people of the three small atolls of Tokelau voted in a UN-sponsored referendum on their future political status. The referendum involved a single proposition: 'That Tokelau become a self-governing state in free association with New Zealand on the basis of the Constitution and the draft Treaty notified to Tokelau ...' with the voters being asked either to agree with the proposal or reject it. Unexpectedly, the number of 'Yes' votes failed to reach the agreed-upon two-thirds majority and the proposal was rejected.

The first aim of this paper is to give an account of the extensive political and social changes that were put in place to prepare for the referendum. The second is to try to account for the unexpected result, while the third is to suggest some of its implications – for both Tokelau and the much wider issue of the UN's decolonisation agenda.

#### **Keywords**

Decolonisation; Tokelau; UN Committee of 24.



TOKELAU HAS SELDOM FEATURED AT ALL PROMINENTLY IN ACCOUNTS OF Pacific Island affairs. Being small and of no particular commercial or strategic significance to the outside world, it has for the past 120 years or so figured simply as part of some larger political entity – the Western Pacific High Commission, the Gilbert and Ellice Islands, the New Zealand Administration of Western Samoa and finally, since 1949, as a part of New Zealand. In 1962, as one of New Zealand's three 'Island Territories' at the time, it was added to the schedule of territories coming under the supervision of the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, more commonly known as the 'Committee of Twenty-four'. For over a decade after that nothing much happened in the way of moves towards self-determination, but once Niue had made its choice of self-government in 1974 both New Zealand and the UN began to pay much closer attention to what Tokelau's choice might be. For their part, Tokelauans at the time had very little interest in the topic. They made it plain that they had no sense of colonial oppression, and felt no need to change their political status. What they wanted was Development, and time to work out political questions at their own pace. Thus 'development' has been going on steadily for the past thirty years or so, though again without much attention from other Pacific countries, much less the wider international community.

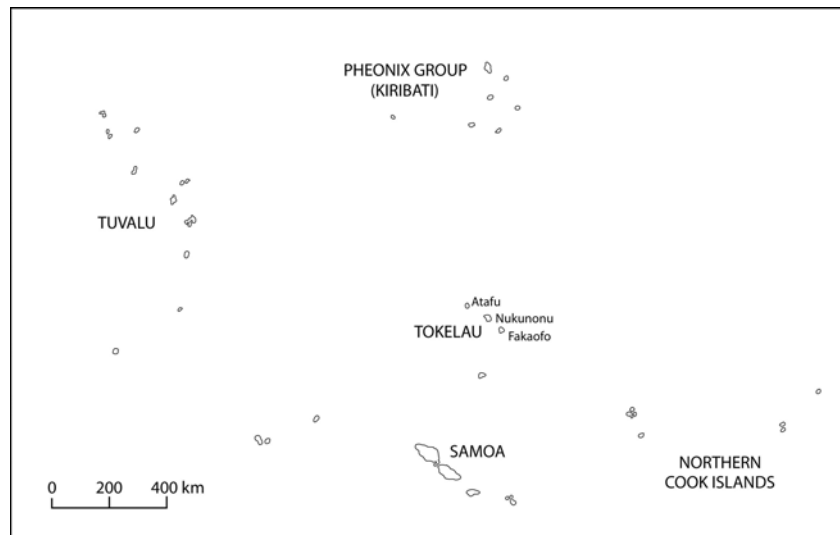
For ten years beginning in 1991 *The Contemporary Pacific* included Tokelau in its annual 'Political Reviews' of Pacific countries, giving useful summaries of the incremental changes in the atolls as well as of the ongoing and generally amicable discussions between Tokelau, New Zealand and the Committee of Twenty-four. These regular *Contemporary Pacific* reviews of Tokelau ended in 2000, though, and since then there have been no generally available published accounts of what has been going on in the atolls. There have, however, been a number of significant developments. In 1999, Tokelau came up with a clear plan for its future development, on the basis of which it was willing to consider making a formal act of self-determination about its political status. From then on, the pace of change became relentless, guided by a host of New Zealand consultants of one sort or another. A referendum on self-government was



finally held in February 2006 and, rather unexpectedly, rejected the proposal to move to formal self-government in free association with New Zealand. My first aim in this paper is to give a straightforward account of the changes that have been so rapidly put in place. The second is to try to account for the unexpected result of the referendum, while the third is to suggest some of the implications of the result – both for Tokelau and for the much wider issue of the UN’s decolonisation agenda.

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Tokelau consists of three small atolls with a total land area of 12.2 sq km, set about 500 km north of Samoa. The total de jure population in 2001 was 1515, this figure including 23 ‘visitors’ and 87 Tokelauans who were domiciled in Samoa at the time. In the 1960s, when the population was approaching 2000, many Tokelauans began migrating to New Zealand. Over 300 took advantage of an NZ-government assisted migration scheme between 1963 and 1971, and others followed of their own accord. There are now over 6000 people in New Zealand who identify for census purposes as Tokelauan or part-Tokelauan, and the great majority of them are New Zealand citizens.<sup>1</sup>





Shortly before the first UN Visiting Mission to Tokelau in 1976, the nascent Tokelau Public Service (TPS, formed in 1967) was expanded and strengthened with the idea that it might become a unifying force upon which a form of self-government could be built. That, however, was not to be. Instead of being a unifying and progressive social force, the new TPS gave rise to a number of difficulties, most of them stemming from the contradictions between the traditional authority wielded by village councils and the directives of the NZ State Services Commission, the authority under which the TPS was formed and run.<sup>2</sup> By 1981, however, various local accommodations between 'custom' and 'regulations' had come to be allowed, and later, with the introduction of the monetarist economic and social policies of the NZ Labour government in 1984, the power and scope of the State Services Commission was further reduced. It was about this time that people in the atolls began to call for the entire Tokelau Islands Administration (as it was then known) to be moved to the islands from its base in Apia. This base, generally known as the 'Apia Office', was a legacy of the days when Tokelau matters were under the direction of the NZ Administrator of Western Samoa. With Samoa's independence in 1962, these responsibilities were simply transferred to the NZ High Commissioner in Apia, and when the TPS was formed, all the senior members (the directors of Health, Education, Public Works, Finance, Administration and so forth, together with their staffs) were located in the Apia Office. There was a considerable amount of justification for this; the infrastructure in the atolls was fairly elementary and radio and sea communications, both among the islands and with the outside world, were not adequate for an effective administration.

In the atolls, however, the TPS was perceived to be both elitist and remote. Hence the demand that the TPS officials be relocated to the islands, where they could be under direct scrutiny and closer to the realities of village life. Both New Zealand and Tokelau agreed that this would be ideal, even though it gave rise to difficulties over which of the three atolls would be chosen as the location of the new Office. Many of the communication difficulties were eventually solved by New Zealand's provision of a purpose-built small ship, which was commissioned in 1991.



As late as 1993, Tokelau leaders were still concerned to make it clear to the outside world that they had no immediate wish to change the nature of their relationship with New Zealand, and looked for ‘understanding and patience’, in spite of the UN’s Decade of Decolonisation (due to conclude in 2000) while they worked out their own path towards self-determination. In part, this long-standing reluctance to change was due to the lack of any local forum for the authoritative expression of a unified ‘all Tokelau’ view. Since the 1960s, matters of national import had been discussed at annual or semi-annual gatherings known as General Fono, attended by the Faipule (the elected leaders of each atoll) together with nine or so delegates from each atoll, the TPS Directors and, usually, by one or two New Zealand officials. Finance and other policy matters were widely discussed, but the General Fono had no statutory authority to ensure that any resolutions or agreements that were reached would in fact be carried out in the separate atolls.

Following discussions between Tokelau and New Zealand in 1992 and 1993, the three Faipule were constituted as a new body, the Council of Faipule, which was charged with attending to these concerns while the General Fono was not in session. In 1994 the Administrator delegated his executive powers to the Council. Each of the Faipule took on quasi-ministerial functions, with one of them taking on the role of Ulu o Tokelau (Head of Tokelau), a position that was rotated among the three of them on an annual basis. Through this new Council of Faipule Tokelau was able, for the first time, to speak with a national voice, and when the UN Visiting Mission was in the atolls during July 1994, it was presented with an 11-page ‘Solemn Declaration on the Future Status of Tokelau’, later known briefly as ‘The Voice of Tokelau’. This document gave an assurance that discussions on an act of self-determination were now on the agenda, with a strong preference for free association with New Zealand. The elements of a blueprint for negotiating such a future status were clearly set out, though no timetable was set.

Then in 1996, with the passing of the Tokelau Amendment Act (by the New Zealand parliament) legislative powers were also delegated, and the General Fono was empowered to make rules ‘for the peace, order and good government’ of Tokelau. The question that remained, however, was whether that particular form of government was really what Tokelau wanted. The



formal delegation of legislative powers to the General Fono might not in itself have called for a rethinking of the way that Tokelau governed itself, but it most certainly gave the opportunity for some old and very fundamental Tokelau ideas of authority and governance to be brought forward for discussion in the atolls, and later, in negotiations with New Zealand. For a century or more, the traditional village councils have persisted as the foundations of legitimate authority in the atolls. From the 1970s onwards that authority had been compromised, most notably by the Tokelau Public Service, but also to some extent by the national political institutions of the General Fono and Council of Faipule. Compromises and accommodations had been achieved. But they were always uneasy ones.

#### **The 'Modern House of Tokelau': 2000–2004**

These were the concerns that lay behind a lot of thought and discussions in the late 1990s, and that were eventually to give rise to an initiative that came to be known as the Modern House of Tokelau. Elements of this were sketched by Tokelau leaders as early as 1997 and 1998, and had received some encouragement from the Administrator. The nature of the Modern House was then more clearly articulated at a General Fono in early 1999, and received general approval. Briefly, the Modern House involved two major changes to the system already in place: first, the transfer of control over the Tokelau Public Service from the NZ State Services Commission to a local Tokelau authority; and secondly, the establishment of the three village councils as the basis and source of government. In cultural terms this was all entirely appropriate, built as it was upon basic Tokelau values and long-established local practices. It also had a clear economic element. As it was articulated at the 1999 General Fono it involved 'Re-empowering our elders, strengthening the villages and economic development, leading to returning to the spirit of self-reliance to the greatest extent possible'. 'These', the fono recorded, 'are the central themes of the Modern House of Tokelau. They will become the posts and beams within the new house.' The 'house' imagery was both novel and appropriate, a refreshing change from the 'canoe' trope that had served administrators and policy experts for many years as they sought to characterise the latest set of relationships between New Zealand, the State Services Commission and Tokelau in terms of the connections between hull,



sail and outrigger. In place of this, ‘house’ drew attention to local foundations, and the ‘coral-up’ trope rapidly became established.

The Modern House had elements that appealed to all the three parties with serious interests in Tokelau matters. For the Tokelauans themselves it represented an opportunity for each community to gain firmer control over local affairs and TPS appointments, and also held out the possibility of more paid jobs at village level. It also pleased the Committee of 24: taken together with the 1993 ‘Voice of Tokelau’ declaration that self-government was a definite possibility, it represented a step (small and belated though it might be) towards the goal of the eradication of colonialism, set to be achieved by the end of the decade. And for New Zealand, mindful of its obligation to promote self-government and long embarrassed by its status as a ‘colonial power’, it was a chance to clear its name at last, and on terms dictated, at least in part, by the subject people themselves. It simply had to be enthusiastically supported.

With the ground plan approved by the 1999 General Fono, the Modern House rapidly became a much more serious proposition. It became an official New Zealand aid project, locked into the timetable and procedures of NZODA (New Zealand Overseas Development Agency). The General Fono of June 2000 gave its official endorsement, and set up three separate groups to carry the project through. Overall organisation was under the direction of a Joint Committee (the Faipule of three atolls, augmented for the task by the three Pulemuku or elected village mayors), the Administrator of Tokelau and the Tokelau Public Service Commissioner (an NZ-based Tokelauan who was at that stage a member of the NZ State Services Commission). Beneath the Joint Committee was a Transition Team, which as originally made up, consisted of two senior members of the Tokelau Public Service (both New Zealand university graduates) and two others seconded from Wellington, one a Tokelauan and the other Samoan. When the Transition Team’s Tokelauan project manager tragically died in July 2000, he was replaced by Tony Johns, a former New Zealand senior public servant with extensive experience in Niue, the Marshall Islands and other places in the Pacific. The third group consisted of a body of directors and others concerned with implementation.

The key part of this triumvirate was the Transition Team, and it moved very quickly into action after the first meeting of the Joint Committee in August 2000 and the subsequent approval of its plans by the General Fono



the following month. Its work plan consisted of four elements: 'Good Governance', 'Capacity Development', 'Sustainable Development' and 'Friends of Tokelau'. The labels themselves say much about the rhetorical context in which the Transition Team saw its goals and the means it envisaged for implementing them. The obfuscating jargon of Public Service managerialism, freighted with all the usual unstated assumptions, had finally reached Tokelau.

*Governance and Capacity Development*

'Governance' and 'Capacity Development' received by far the most attention over the following two years. The labels might have been somewhat novel, but the activities were nothing new to TPS members, or indeed the wider Tokelau community. At least since the 1970s Tokelau has been the subject of innumerable surveys, audits, recommendations, inquiries and reports of one sort or another, almost all of them carried out by outside consultants. These were, however, mainly stand-alone exercises, written in straightforward English. The Modern House project was a definite innovation. Never before had there been such a clearly focused and coordinated project, driven by a single policy objective. Nor had there been anything so well financed.

The two years following the establishment of the project in late 2000 were busy. There was, first of all, a 6-day Management Training Workshop for TPS members, the three village councils and Transition Team members, run by New Zealand-based public sector management consultants. Over the following three months, between January and March 2001, the Transition Team was occupied with visits to each of the three atolls, holding extensive meetings and workshops with the village councils and various village age and gender groupings. These meetings worked out a general agreement on the allocation of functions and responsibilities between the national and village levels of government, based on the premise that decisions and services should be at the village level unless there were good reasons for them to be at the national level. In outline, the division was as follows. The national level (the General Fono and the Council of Faipule): national budget appropriations and financial management, international relations, postal services, currency, rule-making powers, decolonisation, telecommunications, shipping and the overall policy and structure of health and education. The village level, it was agreed, would





control health and education services, planning and asset management, public works, police, village laws and conflict resolution.

While all this was taking place, there were audits and reviews of the Apia Finance department and the Teletok operation and these were followed by a workshop in Wellington to consider a report on the entire exercise to date, prepared by a former NZ public servant with experience in working for both government and community organisations, who had also been part of the Transition Team exercises in the three villages. Following this, there was a review of the Information Technology infrastructure, together with an associated training course for five local technicians, and the establishment of three FM radio stations, also associated with an Apia training course for four technicians from each atoll.

The Capacity Building element of the Transition Team's basic plan built upon the initial December 2000 workshop, with further training sessions in the villages during the visits between January and March. In May 2001 Policy Training Analysis began in Wellington for nineteen senior Tokelau public servants, with sessions conducted by local policy consultants, academics and public servants. Then, in the later months of 2001 there were intensive workshops held in the villages, led by policy analysts from the NZ Department of Labour. There were also Financial Management workshops held in the villages, led by an official from the NZ Audit Department. Many village groups attended, in addition to members of the village administrations, and learned about such things as the legal frameworks, basic bookkeeping and auditing. These village-level exercises were further stimulated by grants from the Joint Committee of NZ\$120,000 per village as 'Village Administration Support Funds' to support further policy and governance education and 'Train the Trainer' exercises, many of them run by NZ-based consultants.

In constitutional terms, one of the most important parts of the overall devolution envisaged by Tokelau from the late 1990s (and actually for years before that) was the replacement of the power exercised by the NZ State Services Commission over TPS appointments. Tokelau leaders had long felt a desire to stop this long-distance control from Wellington and have the power to make such appointments locally. The first steps to this end had been taken in 1993, when the NZ State Services Commission appointed two



Commissioners, one from New Zealand and the other from Tokelau, as the TPS employing authority for a 5-year term. Then in 1998 the two were replaced by a single Commissioner, Aleki Silao, a New Zealand-based Tokelauan, who was appointed to serve until the relevant statutory adjustments were made and three Tokelau Employment Commissioners could be appointed by the General Fono. The General Fono adopted Tokelau Employment Rules in early 2001 and duly appointed three Commissioners (one from each atoll) shortly afterwards. The three had their first meeting in Apia during September, and were briefed on their constitutional role and responsibilities. This was followed by a training exercise in Wellington, where the key instructors were Tony Johns, and Professor Angelo from Victoria University, together with officials from the NZ State Services Commission, Audit NZ and the New Zealand public sector training organisation.

#### *Sustainable Development*

The 'Governance' and 'Capacity Development' parts of the Modern House were planned and put in place with surprising speed. By contrast 'Sustainable [economic] Development' received comparatively little attention. Ideas of business training and 'enterprise development' in the atolls had been in the air for several years before the Modern House project got under way, and these were given some substance by a one-week course in simple business management for about 40 people held in Atafu in mid-2001. This was run by the Samoa Small Business Enterprise Centre, which also put on a further course in Apia later in the year for some 15 selected Tokelau participants.

Then in early 2002 a rather nebulous 'strategic plan' was devised by a meeting held in Apia together with a New Zealand consultant economist. The goals articulated were very general ones – self-sustaining economic growth, creation of jobs with acceptable wages, benefits and career progression, community control and participation, broadening business ownership and respect for culture. The many contradictions between these goals went unremarked. There was no mention of money. (This was, after all, a public service planning exercise.)

Fisheries, however, were discussed in some detail, with assessments of the current attempts to make use of the small aluminium *alia* catamarans obtained



through the Forum Fisheries Agency and strategies to maximise the benefits from foreign vessel licences. Neither of these enterprises was deemed to hold much promise, and instead the idea of a third sort of commercial development was put forward – a joint venture with substantial Tokelau ownership and control. This, it was agreed, was a commendable goal, and it was duly made the leading national development priority. Thus far, nothing more concrete has emerged.

*Friends of Tokelau*

This fourth element of the Modern House was in effect the information and public relations part of the project. It kicked off its activities in May 2001 with a large evening party at New Zealand's national museum in Wellington attended by many local Tokelauans as well as a few politicians and public service officials. One issue of a Newsletter was later published, mostly devoted to the activities of the newly organised Tokelau Public Service. Since then, the scope of information provided has been broadened with the development of a useful website.<sup>3</sup>

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After receiving a report on the project in April 2002, the government of Tokelau recommended its continuation, with the aim of consolidating what had already been achieved and giving renewed attention to economic development. In May 2002 a New Zealand consultant economist also recommended continuation of the project in his 'Review of Support for Self-government of Tokelau'.

Given the extensive series of changes proposed by the Modern House project, and the rather helter-skelter itinerary of consultations, workshops and other meetings that had been involved, a pause for consolidation was obviously called for – especially in view of the need to plan as well for the UN Visiting Mission, set down for August (this is detailed below). Following further consultations between New Zealand and Tokelau, the June 2003 General Fono took the decision to put all the recommendations of the Modern House project into effect by 30 June 2004. There was a great deal to be done, especially in view of the reviews that had recently been made of



the state of basic services. These reviews, all done by outside consultants, included an Education Scoping Study (2003), a Tokelau–NZ AID Joint Review of Support for Tokelau Self-Government (2003), a review of the Health Initiatives Programme (2002) and an IT Review (2002) as well as the review of the Finance Department of the Apia Office done in 2000. All these had been critical of the current practices and had pointed up the need for significant improvements.

Given this state of affairs, the Administrator used his powers under the 1991 Tokelau Commission of Inquiry Regulations, and appointed Tony Johns and Ake Puka, a Tokelau accountant, to report on the provision of all public services. They began their round of consultations in July and reported back in October 2003. There were nine detailed recommendations, all of which were approved by the General Fono in January 2004 and became effective, as was planned, in June of that year.

The changes were many and far-reaching. At the local level, each village set up its own public service structure and the procedures by which this structure was articulated with the village council. The arrangements differed somewhat from atoll to atoll, following the different ways in which the traditional councils operated, but all of them involved a Secretary and a Village Manager, each with a small staff. Their duties involved policy advice, and care of village finances and records, as well as the servicing of the village workforce and tradespeople and the various Council committees concerned with matters such as health and education.

At the national level, the Council of Faipule was provided with a Handbook setting out operational procedures, the development and enactment of legislation, and reporting to the General Fono. Secondly, a National General Manager was appointed to coordinate policy advice for the Council of Faipule and the General Fono, service the Council of Faipule, liaise with the village general managers and coordinate the work of the department directors. In addition the national office was strengthened by the appointment of Communication and Human Resource Development officers. Thirdly, the Wellington-based Administrator assumed responsibility for coordinating all New Zealand government activities relating to Tokelau – such as finance, health, education, recruitment and public service training – with advice in all



these fields provided by New Zealand-based advisors and consultants. Fourthly, the Tokelau Employment Commission, whose three members had been appointed in 2001, was disestablished at the January 2004 General Fono and its functions allocated to a number of different ad hoc bodies. In part, this change was brought about because of the transfer of a number of public servants to village council control; but it was also advisable in view of the difficulties of ensuring that the TEC kept to the ideals of icy impartiality set by its predecessor, the New Zealand State Services Commission, without being compromised by personal and traditional considerations.

The Commission also brought about an extensive reform and rationalisation of village practices. Village council members were granted honoraria of NZ\$7,000 a year to replace the previous local systems of ‘attendance payments’ of one sort or another. Each island also acquired a Council office under the direction of a manager/coordinator with wide responsibilities for the running of public services, local appointments, training and general policy advice. Health and Education Committees were set up on each island, made up of members representing various community organisations, the relevant departments, the council and the council office. An important aspect of these changes was the way in which the Commission regularised the new roles and practices under the attention given to what it called ‘Human Resources Issues’. Remuneration rates were established for all positions, ranging from the Faipule (NZ\$15,000–\$17,000), the Pulemuku and Law Commissioners (NZ\$10,000–12,000), down to General Village Workers on an hourly rate of NZ\$2.35. Other rates, for overtime, ‘difficult conditions’, transfers, overseas accommodation and a host of other special considerations, were reviewed and standardised. All these and other matters having to do with appointments procedures, appeals, discipline, working hours, leave, ‘conduct’ and so forth were all canvassed and incorporated in a new Personnel Manual, available in both English and Tokelauan. There had been previous TPS Manuals, but these had never been at all widely available.

The Commission did its work very quickly and efficiently. It clarified a great number of TPS procedural issues, established new village administrations and reorganised the national level of administration and the way that it was integrated with the political machinery of the General Fono and the Council



of Faipule. It would be simplistic to regard all these changes as simply a return to more village-oriented, more Tokelauan ways of doing things. They were certainly village-oriented, but they were hardly more 'Tokelauan'. The effect, paradoxically perhaps, was both to centralise and decentralise the whole system of governance. Political authority was nominally devolved to the village councils, thereby achieving one of the basic aims of the 'Modern House' agenda. At the same time, the Councils undertook to follow a precisely-defined set of procedures and guidelines for carrying out their work, advised and guided by the newly-appointed managers/coordinators and the staff of the council offices. The idea seemed to be that the complex customary village practices would simply disappear and that the villages would become in effect semi-autonomous branches of the New Zealand Ministry of Foreign Affairs and Trade.

The key to the acceptance of all the changes was money. The last vestiges of the old 1970s regime, with its corrosive division between 'government' and 'village', between a remote administrative elite and 'ordinary folks', had finally been dissolved. Everyone was now on the government payroll, with his or her place defined by the Personnel Manual and subject to the fiscal controls that extended upwards from the coral through the office of the National General Manager and the newly appointed New Zealand General Manager, Finance, to the Administrator in Wellington.

### **Finances**

The financial costs of the projected changes were addressed by a 'Review of Support for Self-Government of Tokelau', carried out in the early months of 2003. The objective was to assess the level of budgetary funding required to support core government services for the years from 2003 through 2008, taking account of a range of contingent factors such as inflation, demographic change, capital replacement and the economic effects of the range of activities likely to be carried out with project funds from NZAID (the New Zealand Agency for International Development).<sup>4</sup> For the previous five years up to 2003, budgetary support had been fixed at around NZ\$4.5 million annually. In view of the need for the upgrading of both Health and Education, the Review recommended an annual base level of NZ\$7.1 million. At the July



2003 General Fono, the level of budgetary support was raised to NZ\$8.6 million for the 2003–2004 financial year, and in a ‘Memorandum of Arrangement between New Zealand and Tokelau on Economic Support for Tokelau 2004/2005–2007/2008’, which was signed in early 2004, the level was raised to NZ\$9.5 million for 2004/05, NZ\$9.36 million for 2005/06 and NZ\$9.73 million for 2006/07.

The Review was concerned only with regular budgetary support and did not take account of New Zealand aid allocated on a project basis for special purposes such as the ‘Modern House’ and the Administrator’s Commission of Inquiry. From its effective beginnings in late 2000 until December 2001, the Modern House project had cost more than NZ\$2.1 million, with most of this sum being expended on extensive meetings, travel costs and outside consultants. Almost all of the money came from NZAID, with somewhat less than NZ\$200,000 contributed by UNDP grants previously allocated to ‘Governance’ and ‘Job Creation’ activities. Beginning in 2003, Tokelau has had complete control over the revenue it gains from both budget and project aid, as well as that granted by outside agencies such as UNDP.

During the 2004/2005 financial year New Zealand provided additional special purpose grants, to improve shipping services (NZ\$400,000); for a cyclone recovery programme (NZ\$900,000); to complete the national electricity supply programme, which had already been supported with NZ\$2 million (NZ\$1,000,000); and to support the referendum process (NZ\$152,000).

#### **The United Nations: 2002–2004**

Following the General Fono in April 2002, attention was turned to a further series of the ongoing discussions with the UN Committee of 24. The most important part of this was the Committee’s impending Visiting Mission, set down for August. Before then, however, there was another UN seminar on decolonisation, held this time in Fiji during May, and a visit by the Ulu to New York in June. At both of these venues the Ulu reiterated Tokelau’s intention to make an act of self-determination, but only after the new structures of the Modern House were securely in place and the details of the future Tokelau–New Zealand relationship had been agreed upon. Tokelau’s main concerns about the relationship were two: first, to ensure a level of support sufficient



to provide good education, health, transport and communication facilities; and second, to establish distinct institutional links with the New Zealand government – mainly to preclude the possibility that Tokelau might in future be submerged as a minor part of an operation that was also concerned with Niue and the Cooks or, even worse from Tokelau's point of view, with the still wider Pacific region.

The UN Visiting Mission was in Tokelau during August 2002, visiting each of the atolls for discussions with the local councils before meeting with the General Fono. All the councils expressed their enthusiasm for the devolution of authority planned under the Modern House, and raised their own minor and strictly local concerns. At the General Fono Tokelau restated the undertakings and understandings that it was working from. There was nothing new in the list, but it gave a useful indication of the work that still had to be done. The list included the following: that Tokelau would work at its own pace; that the self-government that they sought was a home grown 'coral up' one rather than one that fitted neatly into one or other of the UN's categories of 'independence', 'self-government in free association' or 'integration'; that Tokelau had a fear of future neglect, and to that end, was interested in the idea of a Tokelau Trust Fund and an agreed-upon statement of the 'Framework of the Relationship'.

Many of these same themes were also aired at a meeting in Wellington later in August, between New Zealand and Tokelau representatives and the five members of the Visiting Mission. This was cast in the form of a well-mannered 'roundtable discussion', chaired by a Justice of the NZ Court of Appeal. A pervasive theme of the discussion was the three alternative strategies for decolonisation fixed by the UN – independence, self-government in free association and integration. Little of this was new. It had been clearly signalled by the Ulu in both Fiji and New York, and the discussion was largely a re-run of the issues raised by Geoff Bertram (1987) about the differing ways in which free association might incorporate elements of both independence and integration. It was generally agreed that the particular conditions negotiated before an act of self-determination were more important than the label that might be attached to the end result. With that, attention turned to the special problems facing very small territories like Tokelau, such as a





reluctance to move from the status quo for fear of losing future budgetary support, the need for ongoing administrative and technical support, and the possibility of future population loss. Both New Zealand and Tokelau representatives outlined their strategies of ‘partnership’, give-and-take dialogue and regular structured discussion.

Once the UN meetings were done, attention turned to other concerns. In November, there was a further meeting of the committee concerned with the development of a Tokelau constitution, and later that month, members of the Council of Ongoing Government were in Wellington for further discussions on what was at that stage being called the ‘Relationship Framework’. The draft of this document was modified during the November meetings, and was to undergo further modifications during the following year, becoming known as the ‘Joint Statement of the Principles of Partnership between New Zealand and Tokelau’. It was formally signed by the Ulu of the time and a NZ Associate Minister of Foreign Affairs and Trade during a visit of the Governor General to Tokelau in November 2003.

### **Legal and constitutional matters**

In the 1920s, when New Zealand assumed responsibility for administering Tokelau, the islands were, nominally at least, subject to a number of regulations, ordinances and laws derived from the days of the Protectorate and the old Gilbert and Ellice Islands Colony. Many of these were bizarre, even for the 1920s. That mattered little, however, since the people were generally unaware of them and had instead worked out their own effective systems of customary regulations. These local customary systems became firmly established over the following 25 years or so during which New Zealand maintained a ‘hands off’ policy towards the islands, which were in any case isolated from outside contacts by the economic depression of the 1930s, and the Second World War. Indeed, some aspects of these customary regulations have survived to the present, providing the basis on which each island manages its own affairs. Nevertheless since the passing of the Tokelau Islands Act in 1948, the laws relating to the islands have been progressively clarified and developed, and a workable local judicial system has been put in place. Much of this has been achieved with advice and active help from members



of the Law School at Victoria University of Wellington under the direction of Professor Angelo. Since 1985, the work has been supported by project funds from UNDP and has had profound effects on the course of political change. The key to this has been thorough consultation. Laws have been based as far as possible on Tokelau ideas and foreign rule systems have been avoided unless they are fully understood and accepted in the vernacular. As a result, there is widespread acceptance of law as a tool of government.

Work on a constitution began in 1993, once Tokelau had declared its intention of working towards a form of self-government. A Constitution Committee was formed in that year, made up of representatives from the three atolls, and in 1997 it produced what was called a 'First Glimpse of a Constitution'. The work continued with regular annual meetings, taking on a new urgency with the development of the Modern House project. The committee's 2003 meeting generated a number of recommendations, which were agreed to by the General Fono later in the year. Representation in the General Fono was made partly proportional, with two representatives from each village and one representative for every 100 population. The Council of Faipule was increased from three members to six by the addition of the three Pulenuku (elected village 'mayors') and was transformed into the Council of Ongoing Government, with all members taking on some portfolio responsibilities. There was also discussion of the nature of a Tokelau Trust Fund, based on the example of the Tuvalu fund, and in addition, consideration was given to a possible preamble for the constitution.

The constitution was more fully discussed at the 2004 meeting, which took up the possibly vexed question of the definition of Tokelau. The question at issue here was whether Tokelau consisted of three islands or four. The three islands were Atafu, Nukunonu and Fakaofu – those that became known as the Union Islands, were declared to be a British Protectorate in 1877, made a part of the Gilbert and Ellice Islands Colony in 1916 and transferred to New Zealand control in 1926. The fourth island is Swains (known in Samoan as Olosega; Olohega in Tokelau orthography), an atoll lying between Fakaofu and Samoa, which had been a part of the traditional Tokelau domain embracing the other three islands as well.



The United States Guano Act of 1856 named all the four islands, along with an extensive list of other small Pacific islands ‘not under the lawful jurisdiction of another nation’, declaring that the United States would support any US citizen who wished to occupy and claim them. The US did not, however, raise objections to the British protectorate and the subsequent transfers of control over Atafu, Nukunonu and Fakaofu. Swains Island had been settled by a US citizen in the late 1850s and continued to be regarded as part of the territory of American Samoa.

In the 1970s, when the Law of the Sea called for the delineation of maritime boundaries of each state’s Exclusive Economic Zones, the issue of sovereignty became of some importance. Whether Swains was legitimately American or a part of Tokelau (and thus a part of New Zealand) was a matter that would affect the maritime boundaries and the potential benefits to be gained from the seas involved. Tokelau raised the matter during the first UN Mission to Tokelau in 1976, hoping for some help from international law. The UN did not act, however, and New Zealand was forced to negotiate the matter with the US. The eventual outcome was a treaty between these two countries by which the US relinquished its claims to the three islands under the Guano Act, in exchange for New Zealand’s relinquishing of claims to Swains Island. Although the three Tokelau Faipule did formally sign the treaty in 1980, Tokelauans felt that they had been unfairly pressured by New Zealand to do so. Since then, their sense of resentment over this issue has remained strong.

At the 2004 meeting of the Constitutional Committee the decision was taken that the definition of Tokelau should refer to the islands of Atafu, Nukunonu, Fakaofu and Olohega and the associated territorial sea and internal waters. It was not a view that could be readily accepted by New Zealand. Nevertheless, the decision was endorsed by the General Fono in November 2004. The definition was also allowed to stand in the draft that was discussed at a further meeting of the Committee in April 2005. At this meeting, however, the suggestion was made either to omit a definition completely or else to feature Olohega only in the preamble to the Treaty, while changing the formal definition to one such as ‘Tokelau includes all the islands, internal waters and territorial sea of Tokelau, and other marine areas to which Tokelau is entitled at international law’. No decision was taken at that meeting but the



April suggestion eventually prevailed, and in the draft constitution as it stands at present Tokelau is the three islands version.

No other elements of the draft constitution have been at all contentious. The preamble is a low-key one incorporating a number of basic values – foundation on God, positive cooperation with New Zealand, culture, customs and the family, the villages as the source of authority, the *inati* system of sharing resources and the importance of good health, education and an adequate standard of living. The constitution itself lays out in an orderly manner the major institutions of government – the General Fono and its powers, the Council of Ongoing Government, the Court system and Human Rights.

### **Economic development**

Notions of economic development – of production to make money, increase the food supply and provide better amenities of life – have been in the Tokelau air at least since the late nineteenth century. In the 1860s, after the depredations of the Peruvian slavers, epidemics and the establishment of the missions, Tokelauans successfully introduced new food crops from both Samoa and what was then the Ellice Islands, and enthusiastically adopted as much foreign fishing gear as they could get hold of. Copra production flourished, even in periods of low returns. Meeting houses, churches and other amenities were expanded and improved. The village councils maintained tight controls over all resources and fostered a strong sense of self-reliance.

This whole pattern of social and economic management began to be transformed in the 1960s with emigration, aid projects of one sort or another, and particularly by wage employment. The changes were virtually identical with those that had already taken place in the Cook Islands and Niue, and indeed in many other small Pacific countries. They went along with improvements in education, health services and communications, and were generally welcomed as indicators of progress and modernisation. This was what people told the 1976 UN Visiting Mission they wanted more of.

The improvements steadily accumulated, bringing with them a host of other economic and social changes. By the 1980s, the Tokelau economy was essentially an aid-driven one, dominated by New Zealand budgetary and



project assistance. Copra production virtually ceased in the 1980s and most able-bodied Tokelauans were in paid employment. In 1996, the annual Administrator's Report drew attention to the fact that 'while Tokelau presents an image of a traditional society', the shift had been made from a self-sufficient economy to 'one that is cash based and dependent upon imported goods and modern conveniences'. Revenue was wholly dominated by aid and rentier income from the sales of stamps and coins and the fees paid by licensed US fishing vessels.

In spite of this growing dependence, however, the notion of attaining a degree of self-reliance has persisted among both Tokelauans and, very occasionally, some sections of the Wellington administrative bureaucracy. In recent years, it has been consistently linked with plans for self-government. As early as 1994, after Tokelau had declared its intention to work towards an act of self-determination but before the outlines of the 'Modern House' became clear, the Administrator made a statement in his Annual Report that 'self-government ... should be seen as a stimulant to economic development, by unlocking natural energies: a matter too for pride and dignity'. And when the base plans for the 'Modern House' were revealed at a General Fono in 1999, one of its 'posts and beams' was economic development 'leading to returning to the spirit of self-reliance to the greatest extent possible'. The same ambitions had already been set out in much more extravagant and flowery terms in a 1998 statement by the Ulu to the UN Committee on Decolonisation in New York. As it was reported, the Ulu told the Committee that:

Effective and full internal self-government cannot survive without a sound economic foundation. A more fundamental consequence of this for our people is the regaining of the hungry spirit of the master fisherman and the enduring and patient spirit of the mat weaver ...

When we felt keenly the pains of hunger, we awoke at the crack of dawn and paddled all day in search of birds. When we found them we feasted together on the bounty of the sea and returned home in the twilight exhausted but satisfied that we have brought home the catch to feed the children. We survived. We depended on no one, but ourselves. How we recapture this spirit of independence and pride in our own efforts to survive, is one impetus behind the revitalizing and the modernizing of the House of Tokelau.



During that same year, 1998, a comprehensive economic survey of the group was done by a team made up of a New Zealand economist, a Samoan development consultant and a New Zealand-based Tokelauan public servant. The results, reported as a 'Review of the Framework for NZODA to Tokelau', eschewed any political rhetoric. Its main goal was to 'set a foundation for growth and self-sufficiency' and as a result of extensive interviews and meetings in the atolls it was able to report 'a very clear spirit of optimism as well as a determination to put in place sustainable development strategies which will lead to a better life'. Women in particular came forward with the most innovative and ambitious ideas for consideration. The Review was a hard-headed one, giving due weight to all the constraints (natural resources, remoteness, transport difficulties and so forth) that are commonly seen as working against economic development in places like Tokelau. But it did explore a number of small to medium-sized enterprises that held out possibilities for employment and income generation.

It also made an important comment on what the government was calling 'infrastructure programmes', and the effect that these appeared to be having on the prospects for economic development. The 'infrastructure programmes' referred to were all those leading to 'improvements in lifestyle' – electricity, telephones, washing machines, freezers, houses of imported materials, video games, television and so forth – which were being rapidly accumulated through government wages and salaries, and which, because they mirrored New Zealand, were attractive. As the Review points out,

... it has not been adequately recognised that the operation and maintenance of such infrastructure must be paid for. By definition of infrastructure, this would normally occur through the development of economic activity based on that infrastructure and ensuring its full economic potential use. In respect of the concerns over the potential adverse impact of such economic development, it is ironic that the worst of these impacts have already occurred through the provision of the infrastructure. At the same time, the implications of Tokelau's investment on infrastructural 'programmes' may increase rather than decrease Tokelau's reliance on assistance. Further, the cost of subsidising or operating infrastructure may undercut investment in social sectors such as education and health.



In more direct terms, the so-called ‘infrastructure programmes’ had little to do with economic development. They were subsidies to living standards and an expanded consumerism, which in fact tended to work against economic development.

The Review appears to have sunk without trace. Nevertheless, the notion of economic development has persisted, especially in the ongoing discourse about self-government. In June 2002 a different Ulu (the post has continued to rotate annually among the three Faipule) was in New York to address the UN Committee of 24 and he spoke of wanting ‘Tokelau to start seriously working on revenue raising activities, to ensure that it is not totally dependent on aid from New Zealand ... This,’ he pointed out, ‘should give Tokelau a sense of ownership, achievement and higher level of responsibility in terms of its financial decisions’. He spoke of the potential importance of fisheries, and stated that ‘Economic development, within the sustainable development strand [of the Modern House] will receive the highest priority in the next three years’. Again, there has been no indication that any of the few development initiatives that have been tried has led to concrete results. Nobody, it seems, doubts the sincerity of the intentions, but as the 2003 ‘Tokelau–NZ Aid Joint Review of Support for Self-Government’ put it, ‘perhaps a focus on continuing with [the initiatives] may eventually bear fruit’. In the meantime, the TPS continues to be the dominant economic force in the atolls, and, in Geoff Bertram’s memorable phrase, ‘without countervailing predators’. Apart from a few small shops and handicraft work, the only local source of income available to ‘ordinary’ untrained Tokelauans is village work on the minimum wage.

### **Toward the referendum, 2004–2005**

Although Tokelau had not yet formally committed itself to a referendum, much less set a date for it, the idea was firmly entrenched in both New Zealand and Tokelau government circles, particularly following the effective devolution of political authority to the separate island councils in June 2004. Later that month, the administrator and the manager of the Tokelau National Office spoke about it on a popular morning broadcast on NZ National public radio. Both speakers emphasised the goals of ‘self-reliance’ and ‘autonomy’ (without,



however, mentioning who might be paying for them). They pointed out how the group was already ruling itself and running its own budget, and how Tokelauans in the future would be moving from New Zealand to lend their support to a new regime.

In August 2004 the Ulu attended the Pacific Islands Forum meeting in Apia as part of the delegation headed by the New Zealand Prime Minister, Helen Clark. A request was made for Tokelau to address the meeting, and the Ulu spoke (effectively, by all accounts) of Tokelau's desire to assert its right to self-determination and thus maintain 'a viable and living community' and 'lives that are free and worthwhile'. Following the Forum Clark made a two-day visit to Tokelau on a New Zealand frigate, where she was able to announce substantially increased funding for various projects, a further \$1million for the Trust Fund and assurances of continued support. The schoolchildren did their customary singing of the New Zealand national anthem and the people had the New Zealand flag prominently displayed. Clark expressed her hope that on her next visit she might be able to hear Tokelau's new anthem and see its new flag.

Then in November 2004 the six members of the Council of Ongoing Government, together with ten senior Tokelau public servants, visited New Zealand for meetings with the various Tokelau communities, the Prime Minister and other senior NZ government officials. Press reports of these meetings emphasised New Zealand's willingness to go along with arrangements for an act of self-determination together with a treaty outlining the arrangements that would prevail under self-government. Attention was again drawn to the extent that Tokelau was already managing its own affairs – with its own legislative body, executive council (the Council of Ongoing Government) and judicial system, control over its own budget and its public services. This visit also allowed for detailed negotiations of elements of the draft Treaty, and the signing of a trust deed establishing the Tokelau International Trust Fund. Modelled on a similar fund established by Tuvalu, this is controlled jointly by New Zealand and Tokelau. Contributions to date amount to almost NZ\$25 million, with contributions having been made by New Zealand, Australia and Tokelau.





The visiting TPS members also had their own special gathering – a 6-day live-in exercise in salubrious surroundings, of the sort much favoured by Human Relations and Management specialists in the upper echelons of the NZ Public Service. There were formal sessions on Leadership, Planning and Management, as well as invited after-dinner speakers and sociodrama sessions led by two experienced specialists. Mentors were also available for discussion of training needs as well as personal issues.

The formal decision to hold a referendum was finally taken at the General Fono in August of 2005, with the date set for November. A Referendum Commission was appointed, made up of the Faipule and two representatives from each atoll, and rolls were opened. To appear on the roll of ‘qualified voters’ a person had to be 18 years of age or older, of sound mind and legally entitled to reside in Tokelau, while at the same time fulfilling various criteria relating to the extent and duration of their actual residency. Voting was to be on a single clear issue: ‘That Tokelau become a self governing state in Free Association with New Zealand on the basis of the Constitution and as in the draft Treaty notified to Tokelau ...’, with voters being asked either to agree with the proposal or reject it. It was also proposed that self-determination in accordance with UN requirements would be declared ‘if and only if the affirmative votes cast by all voters in the Referendum is more than a 2/3 majority of the valid votes’. The 2/3 majority requirement might have seemed to some to be rather a high one, but Tokelau agreed to it on the basis that, if it were reached, the result would be clearly beyond dispute.

The only contentious issue in the referendum plans was the restriction of voters to those normally resident in the atolls, thus excluding the more than 6000 Tokelauans or part-Tokelauans living in New Zealand or elsewhere. This bitterly offended many, if not most of them, who felt that they were every bit as Tokelauan as those in the atolls. They were quick to point out how they had helped their island relatives in very material ways over the years, and also continued to be involved with them in matters of family lands. There was thus some justification for their disappointment. But there was also justification for the official Tokelau view that the right to vote should be restricted to those who had remained in the islands, doing all the work and managing the changes. The official view clearly prevailed, and even came to be accepted by most in the migrant communities.

Preparations continued through the rest of the year. Both the Constitution and the Draft Treaty of Free Association were disseminated in the atolls and finally also made available (in both English and Tokelauan) on the official Tokelau web site in late November. The version of the Constitution remained that which had been agreed upon at the April meeting, but with Olohega excluded from the definition of Tokelau, though remaining in the Preamble. The Draft Treaty followed closely on the 'Principles of Partnership' document that had previously been agreed up on and signed during the Governor General's visit in November 2003.

The Treaty is a document of 12 articles, together with a preamble and a number of supporting, explanatory documents. The articles, in summary form, are as follows:

- (1) Relationship of Free Association. This affirms '... close cooperation and consultation in a spirit of partnership'; recognition and respect for each other's interests; recognition of Tokelau's unique language and culture; respect for the principles of the UN charter, including human rights and the rule of law.
- (2) Culture and Heritage. Recognising Tokelau's language and culture as a source of strength and identity, New Zealand undertakes to support an agreed programme to ensure their retention and development. Notes to this article make it clear that the exact proposal is still provisional, but that it will have New Zealand financial support and will include culture, heritage and language, a website, an archive database and oral history records.
- (3) Citizenship. Rights to New Zealand citizenship are to continue.
- (4) Economic Support and Infrastructure Development. To be provided by New Zealand 'to maintain and improve the quality of life of the people of Tokelau', while Tokelau undertakes to provide good political and economic governance.
- (5) Administrative, Technical and Specialist Support. To be provided by New Zealand, with Tokelau responsible for the delivery of services in Tokelau.



- (6) Emergency and Disaster Relief. New Zealand to continue to assist Tokelau in coping.
- (7) Defence, Security and Maritime Surveillance. New Zealand to continue to accept responsibility, to be discharged at Tokelau's request and with its consent.
- (8) Tokelau International Trust Fund. Both New Zealand and Tokelau undertake to continue to support this, and to seek contributions from other states and international organisations.
- (9) International Relations. Tokelau has the right and legal capacity to conduct its own international relations and to enter into treaties in its own right.
- (10) Consultation. Regular meetings between New Zealand and Tokelau, by agreement from time to time, as appropriate and called for by either party.
- (11) Change of Status. Tokelau has the right to consider, at some time in the future, a status different from self-government in free association, including independence or integration with New Zealand, in which case both countries shall negotiate in good faith.
- (12) Supporting Documents. The means of giving effect to the Treaty to be recorded in documents agreed from time to time between New Zealand and Tokelau.

A final article simply states that the Treaty shall enter into force on the date of signatures by both Tokelau and New Zealand.

In October 2005 the Ulu was at the Pacific Forum meeting in Papua New Guinea, where he spoke of his hopes for self-government and the way in which it would allow Tokelau to stand up as an equal before New Zealand and other Pacific nations. Then later that month he was in Wellington together with the manager of the Tokelau National Office, for discussions with New Zealand officials. They took this opportunity to speak at a lunch-hour gathering of the 'Friends of Tokelau' at the Ministry of Foreign Affairs and Trade. The audience was overwhelmingly Tokelauans working in one or other of Wellington's government departments, and the meeting was conducted wholly in Tokelauan. On this occasion the Ulu's address made clear references



to the need for progress, casting the issue as a contrast between being a *kolone pea* (remaining a colony) or making a *laka ki mua* (taking a step forward). The 'colony' reference was novel, and a clear indication of the way in which the Ulu, at least, wished the referendum issue to be seen by his audience. Several listeners raised the question of their exclusion from the voting, and others tried to raise a discussion on the pros and cons of self-government.

At this stage all seemed set for a referendum in November. Then in mid-November it was delayed until February 2006 because translation of the Constitution and Treaty 'had only just been completed' and had yet to be approved by the New Zealand cabinet. If it did nothing else, this delay provided space for some close consideration of the idea of self-government among New Zealand Tokelauans. Talkback radio provided the most open arena for these discussions. For several years past Wellington's 'Access Radio' has provided three weekly slots of two-hour duration, for programmes run by small groups of Tokelauans, each of which is loosely associated with one or other of the three atolls. Although the timing, 11.00 p.m. until 1.00 a.m., is hardly a convenient one, the sessions have a wide audience among local Tokelauans. Most of the sessions are taken up with notices of meetings, family greetings of one sort or another, prayers, music by local Tokelau bands and people phoning in their views on all sorts of issues. In many of the December and January nights there was lively discussion of the self-government issue. Some questioned the idea of taking a step into the unknown, especially since it might be difficult to retreat from the decision. Others questioned the degree of certainty that a treaty could provide, especially when the world held many examples of treaties that had been blatantly dishonoured. The example of Niue was also held out as an example of the baleful consequences of being self-governing in free association with New Zealand. Many of the opinions were quite bluntly stated – like that of the much respected old woman who declared that the referendum idea was all rubbish and one that could benefit only those who were *mau tofi* (in government positions). Some of the views were very astute. Others were dotty, and in this way the whole performance closely resembled other talkback shows on New Zealand radio. But what the midnight sessions did provide was a lively foil to the bulletins appearing from time to time in the mainstream news media, which, almost without exception,

originated from official departmental press officers and were written up uncritically by journalists who did not explore the issues in any way.

### The referendum and its aftermath

The referendum was finally held between 11 and 15 February 2006. Voting began in Apia and the locked ballot box was then taken by ship to each of the three atolls on successive days. The ship also carried a party of about fifty press and television journalists, officials and observers from New Zealand, the US and UN organisations.<sup>5</sup> All of them, it seemed, had come to expect a Yes vote. But when the tally was made in Fakaofu on the last day the number of Yes votes failed to reach the necessary two-thirds majority and the proposal failed.

The total number of registered voters was 615 and of these, 584 voted. Three votes were invalid, making the total of valid votes 581. Of these, 349 (approximately 60%) agreed with the proposal, while 232 (approximately 40%) rejected it. According to all reports the disappointment among all officials was palpable – and made all the more acute because there appeared to be no single factor that could explain the outcome. Some blamed ‘the people’s’ cautiousness and deep-seated fear of change, or personality clashes, scaremongering by overseas Tokelauans, or an ongoing rift in the Atafu church, which had spread through all aspects of community life.

Any of these factors might have influenced at least some people to vote (or not to vote) the way that they did. However, a much more powerful reason for the rejection of the proposal is indicated by the numbers of people who simply did not register as voters. No official figures are available, but at least two independently-made estimates put the figure at around 30 per cent of those who were eligible to register. Why, though, did they not register? Given the reported extent of the consultation, the publicity and the preparation in each of the small communities, it is implausible to suggest that they were simply unaware of the necessity to do so. It was in fact a boycott, of a thoroughly traditional kind. Tokelauans who disagree with a proposal or undertaking of any kind simply avoid the meeting or other process that is set up to decide on the issue. Whenever this happens, Tokelauans speak of a lack of *maopopo* (togetherness or unity of purpose) and are generally discouraged



by it. They know how to interpret it though. It means No. If the non-registrants can in fact be taken as No votes, their numbers, when added to those who registered and then voted No, and those who registered and then did not vote, would make up about 57 per cent of the population who were eligible to register. By this calculation, then, only 43 per cent voted in favour of the proposition [but see the postscript].

In considering possible reasons for this one needs a fairly wide perspective. Tokelau's move towards a referendum and self-government in free association with New Zealand did not arise from any deep-seated, popular impulse to be rid of New Zealand control – much less from any 'struggle for freedom'. From the beginning, it was driven by the UN Committee of Twenty-four and the NZ Ministry of Foreign Affairs, which wanted to see its obligations to the UN to help Tokelau finally bear fruit, and so clear New Zealand of any possible taint of colonialism. It was the creature of bureaucrats, and the immediate goal was always to create a plausible governmental structure capable of at least the appearance of autonomy.<sup>6</sup> This, almost in its entirety, was the bureaucratic view of 'development'. The 1993 'Voice of Tokelau' provided the opening, and from then on the process was given overwhelming support by New Zealand. In the words of one senior Tokelau public servant, Tokelau became 'the most consulted place on earth'. Cooperation between the New Zealand officials on the one hand and Tokelau officials and members of the Council of Faipule (and later, the Council of Ongoing Government) was intensive, frequent and congenial.

In the end, however, New Zealand left to Tokelau officials and members of the Council of Ongoing Government the whole business of getting the message across to 'the people' about the advantages and national status that would come with self-government. That obviously did not happen, and reasons it did not doubtless lie within the main government structures of the Council of Ongoing Government, General Fono, Village Councils and the TPS, or in the linkages between them. Somewhere in there, or between the government bodies and 'the people', the message either did not get through or came to be questioned.

There is much anecdotal material to support this view. Time and again one heard the view expressed by 'ordinary Tokelauans', both those resident



in New Zealand and those visiting from the islands, that the issue of self-government was not fully understood. Thus the view of the old woman on talkback radio that it would only benefit those who held government positions. Thus also the candid doubts expressed by an Acting Faipule back in 2004. Coming from outside the loop and appointed rather suddenly to his new position, he also found himself responsible for a speech on Tokelau decolonisation at a meeting in Papua New Guinea organised by the Committee of Twenty-four. He was not one to be much impressed with the arguments about cultural pride and national status put forward by the proponents of self-government. Interviewed by a journalist from a Samoan magazine, he painted things as he saw them. 'We are very happy for Tokelau's case to be heard,' he said, 'and I am hopeful to provoke debate that will help all of us [non self-governing territories] in our respective moves to self-determination.' Referring to the sense that his country was being pushed, he pointed out: 'We have always asked, what's it for? We have said this to the UN and to New Zealand, why do you want to do this? We may be committing genocide? Why do we want to do this? Is it to satisfy you or satisfy us? ... Is it going to feed our mouths? Is it going to feed our children? What good is it for future generations?'

An unpublished but fairly widely circulated paper by an NZ-based Tokelauan (Teao 2006) set out many of the issues explicitly. The paper was prompted mainly by the apparent reluctance of Tokelau political figures to discuss the pros and cons of self-government before Tokelau audiences in New Zealand. (One visiting Ulu had indeed dismissed any discussion with the bald proclamation that there were simply no difficulties or disadvantages attached to self-government.) The paper was emailed to each of the Tokelau atolls shortly before the referendum, and its views gained some recognition, particularly on Atafu and Fakaofu. The paper was not against either the referendum or self-government. Its main concerns were to raise issues for discussion. The points that Teao saw as clearly favouring a Yes vote were the prospect that self-government would raise Tokelau's profile, allowing its voice to be heard in regional and international forums on an equal footing with those of other, larger nations; that patriotic sentiments would be fostered, perhaps leading people to work harder; that self-employment and a private sector could be developed, freeing people from total dependence on government



jobs. Against a straightforward Yes vote, Teao urged consideration of a wide range of facts – including the obvious ones that Tokelau was too small, too remote, too poor, had too few people (especially skilled people) and insufficient economic resources for effective economic development. He also pointed out that there was as yet little feeling of a truly national identity as distinct from the separate atoll identities, and, in the absence of any constitutional provisions or established procedures, the difficulties that might arise if there were disagreements between the atolls, or between the national government and one or more of the village councils. The paper also raised doubts about the accountability of government bodies and the ways in which Tokelau might cope if there were any more population loss. All these issues provoked some discussion, especially since they were raised so close to the referendum, but it is not possible to gauge the exact effect they had on the voting.

Language and the complexities of translation undoubtedly contributed to the difficulties of consultation. On one occasion when a visiting Faipule and officials of the Tokelau economic development unit were addressing a gathering of Tokelauans in Wellington, the audience was so bewildered by all the neologisms that they had to ask the speakers to use the original English terms instead. Even then, much remained vague. The lexicon of managerialism, with its distinctions between ‘outputs’ and ‘outcomes’, between ‘strategic plans’ and ‘indicative plans’, confuses not only Tokelauans. But when such usages are crudely and rather literally translated into a completely foreign language, all hope of common sense rapidly evaporates. The law project directed by Professor Angelo was the one enterprise that paid careful attention to matters of translation. From the beginning, it sought to build up the legal system as far as possible on local concepts, and in spite of the many difficulties involved,<sup>7</sup> it has been most effective and useful in many aspects of Tokelau’s preparations for self-government.

The time since the referendum has allowed for some serious stocktaking by everyone concerned. Both the Council of Ongoing Government and the General Fono have met several times, and the Ulu, together with the Manager of the Apia Office, have visited New Zealand for talks with local Tokelauans and government officials. The Ulu has also visited New York for a meeting of the UN Committee on Colonialism. Thus far it is not clear what the next





moves might be. There is, however, a general feeling, at least among Tokelauans, that the whole referendum exercise has not been a complete waste of time. It sprung a very large amount of New Zealand and UNDP money, and generated a great deal of change in a few short years. Self-government and the signing of the Treaty would have 'locked in' the many promises of ongoing New Zealand support to some degree, and probably have opened the way for other international sources of aid such as the EU. As things stand, however, there are probably enough 'development' projects in train to keep everyone busy, and the present New Zealand Labour government has given assurances that support will continue. The only worry must be the prevalent gloomy predictions for the New Zealand economy and the definite possibility that the present Labour-led coalition government might be displaced by a more right wing government at the next election.

Comparisons with the Cook Islands and Niue, once New Zealand's other 'Island Territories', suggest some further dimensions of the Tokelau experience. Long before the issue of decolonisation came on to the UN agenda in the 1960s, the Cook Islands and Niue had had nearly three generations of familiarity with colonial administration and institutions. Both had resident New Zealand administrators and a cadre of public servants, many of them seconded from New Zealand. They also had legislative bodies, albeit with limited powers. Given these circumstances, moves toward self-government were relatively straightforward, and both territories came to self-government by acts of the New Zealand parliament. The Cook Islands was first, in 1965, impelled in part by the nationalistic aspirations of Albert Henry and his Cook Islands Party. Niue was much more reluctant to make its move, in 1974, and did so only with assurances in its Constitution Act that New Zealand would continue to provide assistance and a requirement that the Public Service Commission have regard to the employment opportunities and level of remuneration available in New Zealand.<sup>8</sup>

Tokelau, by contrast, has always been administered with a very light hand. There was never a resident New Zealand administrator, and an effective public service was established only in the 1970s. The first UN Visiting Mission to the group was in 1976 and it then took a further 30 years to bring the atolls to a serious consideration of self-government. There was indeed much to be done by way of developing a national level of government. But Tokelau in



general used the time wisely, keeping a close eye on the fortunes of the Cook Islands and Niue. The infrastructure was built slowly and surely. Communications with the outside world were greatly improved. With some expert outside advice Tokelau also developed its own constitution rather than relying on an act of the New Zealand parliament. And again, the Treaty of Free Association could be said to entrench the relationship with New Zealand much more explicitly and effectively than any of the arrangements initially worked out by the Cook Islands and Niue when they became self-governing. Furthermore, the Treaty's novel clauses pertaining to the maintenance of language, culture and heritage are probably a useful innovation. Nobody is quite sure what they mean – but then that might partly be their point.

In the Cook Islands and Niue, similar programmes for the maintenance of language, culture and heritage have had varying degrees of success. Nevertheless they continue to be promoted, and often well funded by aid donors, especially when they single out 'culture' (by which is meant the expressive aspects such as song and dance) as a stimulus to social stability and economic development. It is in the more material aspects of their cultures, the social, economic and political base, that change has been more marked, and has led to many unintended but far-reaching changes. As the Cook Islands and Niue moved toward self-government, New Zealand aid increased dramatically, along with substantial increases in the administrative bureaucracies. New dimensions of stratification emerged. In general, those who gained employment in the new orders stayed. Those who missed out simply migrated to New Zealand. The effects of this have been less apparent in the Cook Islands than in smaller Niue, where there are now marked divisions of outlook and loyalty between the migrants and those in the home island. Over the years, many development projects have been tried on Niue, only to fail because of the population loss. The obvious lesson to be taken from this is that it could all happen again in Tokelau – which is even smaller than Niue and has fewer natural resources. And it could happen whether Tokelau is self-governing or not. For now, though, life in the atolls will probably continue for some time in very much the same patterns that prevailed before the referendum. Eventually, there may be a further move toward self-government, or even toward some form of integration with New Zealand.



Back in 1963 there were some 64 non-self-governing territories that came under the purview of the Committee of Twenty-four. Today, with substantial help from the Committee, only 16 remain, including places as diverse as St Helena and Western Sahara, but with none of them showing much inclination to change their status. For at least the past four or five years Tokelau has been regarded as the territory most likely to make an effective act of self-determination and so remove itself from the list. Now that it has chosen to remain, this must be regarded as a setback for the Committee, and perhaps for the whole issue of decolonisation as a pressing international issue. Nevertheless, the work of the Committee continues, in spite of ongoing criticisms of what has been seen as its outdated ideological stance. It received a full report on the Tokelau situation in the last week of February 2006, giving full acknowledgement to the ‘will of the people’ and praising the way that the referendum was conducted as well as New Zealand’s active cooperation with the exercise. Quite properly perhaps, the papers from the meeting report the Yes vote as being 60 per cent, giving no consideration to the possible significance of the failure to register as voters of some 30 per cent of those eligible to do so. As the Committee sees it then, the vote was a closer one than it actually was, fuelling hopes that a further referendum might alter the situation. Indeed, the New Zealand representative at the meeting pointed out that ‘The referendum should be regarded as “an” act of self-determination rather than “the” act of self-determination’, adding the curious rider that ‘Tokelau had not voted to remain a dependent territory of New Zealand’ but had rather ‘opted to make no change, at the present time, to the status quo’.

That, I suppose, is one way of looking at it, even though it is rather like a party defeated in an election maintaining that the result was not a vote against it. It may even be true enough. But any effective grass-roots change in Tokelau may take some time. There have been a whole host of innovations, particularly political ones, introduced into Tokelau over the past four or five years, and they have barely been given time to get understood, ‘bedded in’ and accommodated to the local scene. It has all been too much, too fast and far too ‘top down’. That is not the way that Tokelau has managed to keep its social cohesion and its cultural identity so successfully over the years

**Postscript**

The argument of the paragraph analysing the strength of the Yes and No votes need to be revised in the light of figures from the official October 2006 Tokelau census. The estimate of 'around 30 per cent' of those eligible to register to vote not in fact registering were based on figures from the 2001 Tokelau census. In 2001 there were 1515 'Usual Residents of Tokelau' actually present in either Tokelau or Samoa on census night. Of these 1515, 87 were in Samoa. In 2006 there were 1107 'Usual Residents of Tokelau' actually present in either Tokelau or Samoa, and of these, 33 were in Samoa.

The difference between these two totals represents a decrease of 26 per cent. It seems obvious, then, that the estimate of 30 per cent of non-registrants was due to drastic population loss rather than any other cause. At this stage it is difficult to make any statement of the connections between the population loss and the 'developments' described in this paper.

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## Notes

- <sup>1</sup> ‘Tokelauan’ is an ethnic category rather than an automatic entitlement to New Zealand citizenship. Since 1948 New Zealand has allowed citizenship to all persons born in Tokelau, at least one of whose parents is a New Zealand citizen or entitled to reside permanently in Tokelau, New Zealand, Niue or the Cook Islands, or to Tokelauans born outside these countries, at least one of whose parents is a New Zealand citizen by birth or grant. Hooper (2000) is a brief survey of Tokelau. A much fuller account is in Huntsman and Hooper (1996).
- <sup>2</sup> These difficulties are described in Hooper (1982 and 1993) as well as in Wessen (ed.) (1992).
- <sup>3</sup> This site, <http://www.tokelau.org.nz>, is still functional.
- <sup>4</sup> NZAID is essentially the successor to NZODA, the Overseas Development Agency, the change having been made in 2002.
- <sup>5</sup> The best eye-witness description of the referendum is Ian Parker’s article in the *New Yorker* (2006).
- <sup>6</sup> Nobody has ever seriously thought that Tokelau could ever generate enough income from its own resources to pay for even the most basic level of services demanded of an autonomous state. An ingenious solution to this problem was Alison Quentin-Baxter’s proposal (1994) of ‘sustained autonomy’ as an alternative model for small non-self-governing island states. The term itself has never gained much public currency, doubtless because it is such a transparent oxymoron, but this in effect is the model that has been followed closely in the New Zealand–Tokelau relationship.
- <sup>7</sup> An account of these is given in Angelo and Vulu (2004).
- <sup>8</sup> As the Niuean author, Hima Douglas, put it, ‘It would be difficult to find a Constitution which more openly acknowledges that a country’s general well-being was going to be more or less dependent on the pay packets of public servants’. This passage is from Douglas (1987).

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