



The Modern House of Tokelau: Self-determination in a Pacific Atoll Nation

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Introduction

Nic Maclellan of the Nuclear Free and Independent Pacific Movement backgrounds the recent vote on self determination in the small Pacific nation of Tokelau. While the vote subsequently narrowly rejected the option of free association with New Zealand, another vote on self-determination is likely in the near future.

Maclellan writes:

"Even though many donor governments promote good governance and human rights in the Pacific, the right to self-determination is rarely mentioned. But the issue of self-determination is still a crucial issue on the regional agenda, as shown by the violent conflicts in New Caledonia in the 1980s, Bougainville in the 1990s and West Papua today."

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Essay: The Modern House of Tokelau: Self-determination in a Pacific Atoll Nation

In February 2006, the people of Tokelau will decide on their future political status, voting in a referendum on free association with New Zealand.

The Pacific atoll nation, located 500 kilometres to the north of Samoa, has a population of 1,500 people. Its land area is just 12 square kilometres on the three low-lying atolls of Atafu, Nukunonu and Fakaofu.

Tokelau is listed as a non-self-governing territory with the United Nations Special Committee on Decolonisation and is the last of New Zealand's dependent territories to vote on its political status. New Zealand has been Tokelau's administering power since 1925, after the islands were colonised by the United Kingdom as a British protectorate from 1889. But Tokelau's Administrator - New Zealand Foreign Affairs official Neil Walter - may soon be out of a job.

For over a decade, Tokelauan customary leaders have been negotiating with the New Zealand government to develop a new Constitution as a self-governing nation and to hold an act of self-determination, under a process known as "the Modern House of Tokelau." Now, the people of the tiny Pacific nation will vote on their future political status.

Voter registration began on 26 September 2005 and over 600 people are registered for the referendum to be held between 11 - 15 February 2006. The voting will begin in Apia, Samoa before moving to the three atolls. All Tokelauans aged 18 and over who are normally resident in Tokelau are eligible to vote in the referendum, which will be monitored by a team of officials from the United Nations. If two thirds of voters decide in favour of free association, the New Zealand parliament will repeal the 1948 Tokelau Islands Act and the two governments will formally sign a Treaty of Free Association (Under the 1948 Act, Tokelau is deemed to be within the territorial boundaries of New Zealand and Tokelauans are New Zealand citizens).

More than 7,000 Tokelauans live in New Zealand, but they are not eligible to take part in the referendum, which is limited to registered voters over the age of 18 who meet one of the following criteria:

1. entitled to reside indefinitely in Tokelau and, since 1 October 2004, has been resident in Tokelau for at least three months;
2. has permanent residence in Tokelau for not less than 5 years before the date of application of registration;
3. has permanent residence and is studying outside Tokelau;
4. is a Tokelauan employed in the Tokelau Public Service. [1]

There have been some complaints from Tokelauans who've migrated in New Zealand and cannot participate in the vote, and only 619 people have met the voting criteria and registered to vote.

The NZ government has also been criticised for pushing the vote onto a small island people that cannot meet the requirements of nationhood. [2] But following her 2004 visit to the territory - the

first in nearly 20 years by a New Zealand leader - Prime Minister Helen Clark rejected the suggestion that the process has been hasty or pushed onto an unwilling population:

"The discussion about the constitutional evolution has been going on for many, many, many years. I've certainly been being briefed about it by Tokelau's leaders since the mid-1990s. So it's been a slow and gradual process, it's been one that the UN Committee on Decolonisation has kept itself fully abreast of, and probably urged movement on. Tokelau has now got to the point where it wants to actually exercise that right of self-determination, and from what I saw I would expect that the Tokelauan people probably will vote for that option of self-government in free association with New Zealand - but nothing about this has been hasty." [3]

Developing capacity

Since the early 1990s, there has been a slow but steady process to devolve powers from Wellington to the people of Tokelau.

In 1993, the Council of Faipule was established as a Cabinet-style structure, to operate when Tokelau's General Fono (parliament) is not in session. Since 1996, the General Fono has had the power to make rules for peace, order and good government in Tokelau. Following electoral reforms in January 1999, the General Fono's 21 delegates are elected by universal suffrage for a term of three years. The Fono includes the Faipule (customary leader) and the Pulemaku (village mayor) of each of Tokelau's three atolls.

Since 2003, the Council of Faipule was extended into the Council for the Ongoing Government of Tokelau and is now composed of the three Faipule and three Pulemaku. The chair of the Council rotates between Faipule from the three widely separated atolls that make up the small island nation: each Faipule serves in rotation for one year as the Ulu o Tokelau or titular leader. The current Faipule are Mr Kolouei O'Brien (Fakaofu); Mr Pio Tuia (Nukunonu); and Mr Patuki Isaako (Atafu).

In forging Tokelauan nationhood, the village is still the foundation of pule (authority). The Taupulega (Village Council of Elders) is the central authority in government, in a territory that has never had a resident New Zealand governor. According to leading Tokelauan public servant Falani Aukuso:

"All of this underlies the importance of recognising the atolls, the villages and the institutions of the local Councils of Elders as the primary institutions that are recognised traditionally and in terms of cultural and appropriateness. The villages are fairly autonomous and as much as possible the villages and the main administering institution of the local Council of Elders deliver public services." [4]

The strengthening of local authority is the core of the Modern House of Tokelau Project, based on the general principle that the traditional Taupulega should be the foundation of any future governance structure:

"The Project involves building and developing the future governance structure around the traditional authority of the Village Council by:

- Integrating traditional decision-making processes with modern advice and support,

thereby allowing quality decisions to meet the modern needs of Tokelau

- Re-establishing the village as the focus of social and economic activities
- Transferring appropriate functions from national level management to village management
- Consolidating functions that can be more effectively carried out at the national level
- Building capability and capacity to support Tokelau's developments." [5]

Self-determination in the Pacific

The concept of "free association" between Tokelau and New Zealand is based on United Nations principles and practice of decolonisation, where non-self-governing territories can vote for one of three options: to maintain ties and integrate with the colonial power; to adopt a status of free association with the former administering power; or to move to political independence and full sovereignty.

Within the Pacific region, there are a number of examples where people have chosen free association rather than political independence - Cook Islands, Niue, Marshall Islands, Palau and Federated States of Micronesia. While the freely associating states have their own parliaments and electoral processes, their former administering power retains a level of control over defence and foreign policy. Under Article 7 (1) of the Tokelau / New Zealand Draft Treaty of Free Association: "New Zealand accepts continued responsibility for the defence and security of Tokelau and shall discharge this responsibility at Tokelau's request and with its consent."

Even though many donor governments promote good governance and human rights in the Pacific, the right to self-determination is rarely mentioned. But the issue of self-determination is still a crucial issue on the regional agenda, as shown by the violent conflicts in New Caledonia in the 1980s, Bougainville in the 1990s and West Papua today.

This issue affects many territories and administering powers in the region, under a range of political and constitutional arrangements: Kanaky / New Caledonia, Te Ao Maohi / French Polynesia and Wallis and Futuna (France); Guam, American Samoa, Commonwealth of the Northern Marianas Islands, and Ka Pae'aina / Hawai'i (USA); Tokelau (New Zealand); Pitcairn (United Kingdom); Rapanui (Chile); West Papua (Indonesia); Torres Strait Islands (Australia); and Bougainville (Papua New Guinea). [6]

In some cases - like the Torres Strait Islands - political leaders are calling for greater autonomy within the nation state. In others, the demand is for full political independence. There are important regional examples of autonomy processes which have been offered to delay or dampen a popular demand for independence: for example, New Caledonia's 1998 Noumea Accord, West Papua's current Special Autonomy Law or Bougainville's ten-year transition under an autonomous government towards a final vote on its political status.

The strength of movements for autonomy or independence varies from place to place, and some non-self-governing territories are so small as to question the viability of political independence (Pitcairn, listed with the UN Special Committee on Decolonisation, has a population of less than 50 people, descendants of the Bounty mutineers). In spite of their small size, however, Pacific Island peoples are still asserting their right to self-determination. As well as Tokelau, four other Pacific territories are amongst the 15 still formally listed as non-self-governing territories with the UN Special Committee on Decolonisation: New Caledonia; Guam; American Samoa; and Pitcairn.

Other islands with sovereignty, self-determination and independence movements - such as French Polynesia and Hawai'i - were originally listed with the Committee in 1946, but later unilaterally removed from the list of non-self-governing territories by their administering powers.

Other self-determination struggles in post-colonial states - such as Bougainville (Papua New Guinea) or West Papua (Indonesia) - do not fall under the mandate of the UN Special Committee.

Path to self-determination

Since 1976, representatives of the UN Special Committee on Decolonisation have conducted visits to Tokelau, to monitor to transition to self-government (Unlike France, Britain and the United States, New Zealand has maintained a co-operative relationship with the Special Committee). In July 1994, a visiting UN Special Mission was told of Tokelau's plan to develop a Constitution as a self-governing nation and to hold an act of self-determination. The next Decolonisation Committee visiting mission in August 2002 then recommended that a study be conducted on the self-determination options and their implications for Tokelau.

In a unanimous decision in November 2003, Tokelau's General Fono agreed to pursue discussions on a draft Constitution and a draft treaty of free association with New Zealand. [7] The process was furthered by the November 2003 "Joint Statement on the Principles of Partnership between New Zealand and Tokelau", signed by the Ulu o Tokelau Kolouei O'Brien and New Zealand's Associate Minister of Pacific Island Affairs, Taito Philip Field. The agreement provides for economic support from New Zealand for Tokelau "now and into the future."

As Tokelau's Falani Aukuso explains:

"The Principles of Partnership document covers areas such as citizenship, the affirming and continuation of support from the Government of New Zealand, particularly meeting Tokelau's material needs. It covers the commitment to continue - on an annual basis - to discuss issues of mutual interest to both countries and it also gives a commitment for ongoing economic development." [8]

The Council for Ongoing Government has supervised an education program on the draft constitution and the draft treaty of free association, which were shared around all three villages in a series of public meetings with the Taupulega or village council in mid-2005. Reports came in from all three villages to Tokelau's General Fono in August 2005 which considered the documents, opening the way for the February 2006 referendum. If people accept free association with New Zealand, Tokelau will remain part of the Commonwealth, and Tokelauans retain citizenship and residency rights in New Zealand. New Zealand will retain responsibility for the external affairs and defence of Tokelau, although only "at the request of and on behalf of the Government of Tokelau."

Economic links

With an annual national budget of less than NZ\$9 million, Tokelau will be reliant on overseas aid into the future, to supplement its earnings from fisheries royalties, shipping charges and remittances. New Zealand's aid program to the islands has been restructured in co-operation with the United Nations Development Program (UNDP), which is currently the second largest contributor to Tokelau's development after the development assistance agency NZAID.

In the past few years, the Ulu o Tokelau has stressed that there is a need to improve

telecommunications and shipping for Tokelau before the country moved to a new relationship with New Zealand (especially as the atolls have no airstrip and shipping from Samoa is costly).

In August 2004, New Zealand Prime Minister Helen Clark announced increased support for Tokelau during a two-day visit to the atoll nation aboard the New Zealand warship Te Kaha. Mrs Clark's trip was only the third Prime Ministerial visit in the nearly 80 years that New Zealand has administered the Polynesian territory. The Prime Minister announced that New Zealand would give Tokelau a new grant of US\$300,000 for shipping services and a study of improvements to telecommunications:

"Previously the shipping service has been a monthly one and the extra support New Zealand's putting in now enables it to go to a fortnightly service and also release the M.V. Tokelau, the small vessel, to do more of the inter-island transport and communication. There is a longer term review of shipping needs about to begin and also we're reviewing the communications arrangement for telecommunications which will be critical for Tokelau in the future ." [9]

In 2004 the Internet registry Dot TK announced that it finalised the first high-speed Internet connectivity on the atoll of Fakaofu, and a shipping review is considering a purpose built vessel for the country.

The creation of the Tokelau International Trust Fund - modelled on similar funds in Tuvalu and other small island states around the region [10] - will provide an important source of revenue. The fund now has over NZ\$25 million, and Tokelau's Administrator Neal Walter says:

"The intention is to allow the fund to build up over five years at least, to a point where the revenue it generates can be used by Tokelau - partly to give it that greater sense of self-reliance, the ability to generate its own revenue and take its own decisions as to priorities, and partly also to give it that kind of safety net, just a hedge against possible natural disasters, cyclones and so on. The trust fund is being set up as an international trust fund and Tokelau's hope and expectation is that the international community and regional and maybe multilateral organisations will contribute to it. That's a very good vehicle, we think, for them to demonstrate their support for this small emerging country." [11]

Tokelau has an office in Samoa - the Tokelau Apia Liaison Office (TALO) - which acts as a contact point with the region. Tokelau is already a member of the Forum Fisheries Agency, the Secretariat of the Pacific Community (SPC), the South Pacific Regional Environment Program (SPREP) and an associate member of the World Health Organisation (WHO) and UNESCO.

New Zealand has supported Tokelau's plan to join other regional organisations. At the October 2005 meeting of the Pacific Islands Forum in Papua New Guinea, delegates from Tokelau attended the formal session as observers, and Forum leaders welcomed "Tokelau's admission to Forum observer status as a significant political and diplomatic step." [12] The 2005 Forum communiqué also supported Tokelau's plan to join the EU-ACP Cotonou Treaty if it votes for free association with New Zealand.

Swains Island

Lying between Samoa and the three atolls of Tokelau is a fourth island, Olohega or Swains Island,

which forms part of the Tokelau group geographically, but no longer politically. The sovereignty of the island has been disputed since the land was settled by American Eli Jennings in 1856. Today, the island is under US administration as part of the US Pacific territory of American Samoa, after the New Zealand and US governments signed an agreement on behalf of their respective territories, purporting to end the dispute over sovereignty.

Through the Taupulega (Village Council of Elders) and the customary leader Ulu o Tokelau, many Tokelauans are calling for the return of Swains Island, hoping to expand their agricultural base and utilise the maritime resources of Olohega's vast 200-mile Exclusive Economic Zone.

In 2000, the Ulu o Tokelau Kolouei O'Brien told the UN Special Committee on Decolonisation:

"A burden and responsibility that has been passed down to the current generations is the regaining of that which was taken away from our forefathers' footprints - Olohega, or Swain's Island. We have retained our claim to Swain's Island within our oral culture, in songs and dance passed down by our forefathers. We have cited external documents that support this claim. It is also an issue that could lighten the pressures and the need for fertile land to grow food and for the production of copra." [13]

The vote on free association will set Tokelau on a new path - the economic and social future of the small atoll nation is still a work in progress.

Footnotes

* Nic Maclellan has worked as a journalist, researcher and community development worker in the Pacific. Since 1994, he has participated as a Special Expert at Pacific regional seminars of the United Nations Special Committee on Decolonisation. Email: nfip@optusnet.com.au. For further information and documents on [Tokelau's self-determination process](http://www.tokelau.org.nz), see <http://www.tokelau.org.nz>

[1] "Have your say of the future of Tokelau", Rules for the Referendum, Ofiha o te Fono a te Malo Fakaaau o Tokelau (Office of the Council for the Ongoing Government of Tokelau), 2005.

[2] See for example Mike Field: "Giving 'Self-Determination' A New Meaning", Pacific Magazine, July 2004.

[3] "New Zealand offers more aid", Pacific Beat, Radio Australia, 11 August 2004.

[4] "New NZ Agreement A Stepping Stone to Self-determination" Pacific Beat, Radio Australia, 10 December 2003.

[5] "Modern House of Tokelau Project", Report to the Joint Committee and Sponsors, June 2002. http://www.tokelau.org.nz/Modern_House/modernframe.htm. For an early outline of the concept, see Aliko Faipule Kolouei O'Brien: "The Modern House of Tokelau", Pacific News Bulletin, June 2000.

[6] Carlyle Corbin: "What future for the United Nations' decolonisation process?", Indigenous Affairs, No.1, January - March 2000

[7] The [text of both draft documents](http://www.tokelau.org.nz) can be found on the web at <http://www.tokelau.org.nz>

[8] "New NZ Agreement A Stepping Stone to Self-determination" Pacific Beat, Radio Australia, 10 December 2003.

[9] "New Zealand offers more aid", Pacific Beat, Radio Australia, 11 August 2004.

[10] Benjamin Graham: Trust funds in the Pacific - their role and future (Asian Development Bank, Manila, 2005).

[11] "Moving closer to self determination", Pacific Beat, Radio Australia, 24 June 2004.

[12] Forum communiqué, 36th [Pacific Islands Forum](#), Papua New Guinea, 25-27 October 2005, at <http://www.forumsec.org.fj>

[13] Aliko Faipule Kolouei O'Brien: "The Modern House of Tokelau", Pacific News Bulletin, June 2000, p.5

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