

APPENDIX 27

(FAKALAH 27)

SUBMISSION TO THE TONGAN ROYAL LAND COMMISSION 2011

1. INTRODUCTION

This has been prepared as a submission to the Tongan Royal Land Commission, 2011 for consideration in the final report.

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2. PART III – THE LAND AND THE CONSTITUTION

Section 104 of the Tongan Constitution states:

"104. All the land is the property of the King and he may at pleasure grant to the nobles and titular chiefs or matapules one or more estates to become their hereditary estates ..."

The eminent Tongan historian, the late Rev. Dr. Sione Latukefu, in his book, *Church and State in Tonga*, wrote:

"The Tongan system of land tenure rested upon the assumption that, owing to his divine origin, all land in Tonga from the beginning belonged to the Tu'i Tonga, and that the rights possessed by other chiefs therefore derived from him. In recognition of this, and also of the fact that he was regarded as the representative of Hikule'o, the god of harvest, an annual festival of "'inasi" (offering of the first fruits to him) was held. ... Politics was closely interwoven with religion in Tonga. ... The Tongans were polytheistic and possessed a hierarchy of gods. Among the principal gods were the *kau* Tangaloa, who lived in the sky, the *kau* Maui, who lived in the underworld, and the deity Hikule'o, who held Puluotu, or Tongan paradise."

3. TOLOA LAND, 2011

Many people in Tonga and overseas are now openly discussing the desire of the Land Lord to receive from the Free Wesleyan Church of Tonga (SUTT who in turn is the owner of Tupou College) the following:

- a one-off sum of two million pa'anga (TOP\$2,000,000) before the lease of the land on which Tupou College is located, is renewed, and

- an annual lease payment to be paid to the Land Lord of fifty thousand pa'anga (TOP\$50,000)

WHAT IS THE BIBLICAL THEOLOGY OF LAND? IS IT OF ANY IMPORTANCE FOR TONGA TO KNOW THIS ?

WHAT IS CONSIDERED LEGAL MUST NOT VIOLATE MORALITY!

4. FOOD FOR VERY SERIOUS THOUGHT

It is important and helpful to assess whether the constitution (especially regarding land tenure) is consistent with the current values, academic and biblical understanding and achievement, thinking and aspirations of the people who are now governed by it. Does a venerable old constitution that had certain purposes very many years ago still seem relevant and appropriate to the people of today?

Take some examples - compare 1875 with 2011 regarding population, level of education, exposure to the outside world, depth of biblical understanding etc.

According to our Tongan history, in 1875, the Monarch (Tupou I) pursued an agenda of political and social change that intended to limit the power of the chiefs, to protect the land, and to demonstrate that Tonga could govern itself without outside intervention.

The Constitution conferred law-making capacity on an unrepresented Legislature, subject to royal veto. The devolution of power to a "*people's Parliament*" in the English manner, did not occur in Tonga.

5. LEGALITY AND MORALITY MUST NOT COLLIDE

Man-made laws are not identical with Unalterable-Moral Laws of God. History points to the social and political danger of man-made laws violating divine moral laws. Wise people centuries ago expressed the importance of respecting and keeping this Divine-Moral Law in this way:

"Righteousness (moral justice) exalts a nation, but sin (violation of God's law) is a reproach to any nation."
(Proverbs 14:34)

The **slave-trade** was legal and normal for centuries, only few Christians recognised it to be immoral. Now, slavery is a crime in Christian countries.

Apartheid was law in South Africa only a few decades ago; now it is history, and regarded as immoral and unChristian.

Ancient civilizations behaved as if **might is always right**. Today, Christians insist that **right should always hold the reign!**

Tongan Constitution, Land Laws and practices must avoid violating God's Moral Law of Justice. Violation of God's Moral Law "**is a reproach to any nation.**"

6. TO BE NEVER FORGOTTEN

The Tongan Coat of Arms:

"The chestnut Tree Leaves Surrounding the (Tongan) Coat-of-Arms were incorporated in the Coat-of-Arms because at that time when a Tongan made an appeal to a Chief for his life he wore these leaves around his neck. The leaves represent the submission of the Sovereign to the Divine will. Hence the words of the motto written in the Coat-of-Arms, "KO E 'OTUA MO TONGA KO HOKU TOFI'A", which means "God and Tonga are mine inheritance."

The Tongan Flag:

"It is my wish that our flag should have the cross of Jesus, for we are saved because of the sacrifice made by Jesus on the Cross at Calvary. Every Tongan should remember the Cross and the flag should be red in colour to represent the blood shed on the Cross for our salvation".

(His Majesty King George Tupou I addressing the First Parliament at Pouono)

7. HUMAN RIGHTS

The Declaration of Human Rights in the Tongan Constitution of 1875, shows very clearly that His Majesty King George Tupou I had accepted the Christian teaching of the equal worth, equal dignity, and equal rights of all people, and he made no secret of his keenness to spread the new faith and to put its principles into practice.

It is reported that when the symbol that is now found in the Tongan Flag was finally decided, His Majesty spoke to the Council of Chiefs

saying: *"It is my wish that our flag should have the cross of Jesus, for we are saved because of the sacrifice made by Jesus on the Cross at Calvary. Every Tongan should remember the Cross, and the flag should be red in colour to represent the blood shed on the Cross for our Salvation."*

All human rights are at base the right to be human. The Christian faith has something important to add to this, namely that our Creator redeemed man at great personal cost, through the incarnation and atonement of Jesus Christ. And the costliness of God's redeeming work reinforces the sense of human worth which his creation has already given him.

8. HUMAN EQUALITY

We have equal rights because we have the same Creator. Both dignity and equality of human beings are traced in Scripture to our creation. God is the impartial Judge. He does not regard external appearances or circumstances. He shows no favouritism, whatever our racial or social background may be. Jesus neither deferred to the powerful and rich, nor despised the weak and poor, but gave equal respect to all, whatever their social status.

9. CHRISTIAN PERSPECTIVE

Sometimes outstanding attorneys are not willing to appeal to the revelation of God in Scripture, so they appeal to *natural law*, which is far more vague. But many of them claim there is a *law above human law*, which is eternal and it is a part of the general understanding of decency and civil order within everyone of us. Certain things, they say, are simply right and wrong, and everybody knows what they are. But we know that such a law is not *culturally relative* - *it is absolute*. Whatever people call it, they are of course describing the **moral law** - **the Law of God**. God has placed immortality within the heart of everyone, and we cannot get around it.

"He (God) has also set eternity in the hearts of men; ... "
Ecclesiastes 3:11

"You hypocrites! You know how to interpret the appearance of earth and sky, but why do you not know how to interpret the present time? And why do you not judge for yourselves what is right?"
Luke 12:56-57

"When Gentiles, who do not possess the law, do instinctively what the law requires, these, though not having the law, are a law to themselves. They show that what the law requires is written in their hearts."

Romans 2:14-15

Moral boundaries are for our (humankind) good, and when we break through the fences, we do not find liberty - we find slavery. Freedom cannot be found in bondage to sin (violation of God's Moral Law); it can only be found through service to Jesus Christ and His Eternal Truth.

10. CONCLUSION

The representations in this submission are prepared in light of a progressive view of a contemporary Tonga as well as the Christian commitments historically inherent when the initial Constitution was created.

11. RECOMMENDATIONS:

- (1) The King of Tonga in partnership with the Parliament of Tonga to create on behalf of the Tongan people, a Commission to examine the Constitution and Land Laws of Tonga and provide recommendations to avoid violating human conscience and a collision with Divine Natural Moral Law of Justice;
- (2) In an effort to ensure transparency and the trust of the people of Tonga, this Commission is to be comprised of people of high moral sensitivity, in addition to technical expertise, to carry out this most difficult undertaking;
- (3) Recommendations from this body must be approved by a referendum and not debated in the Tongan Parliament.