

THEME: SUSTAINABLE ISLANDS – SUSTAINABLE STRATEGIES
TOPIC: HO'OHANOHANO (Social Equity & Heritage)

ISLANDS OF THE WORLD XI
Sustainable Islands – Sustainable Strategies
July 31 – August 2, 2004 at Maui Island, Hawaii, U.S.A.

THE NEED TO REVIEW LAND USE IN THE COOK ISLANDS AND THE POTENTIAL FOR COMMUNITY VISIONING

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KEY WORDS: LAND USE, DECISION MAKING, COMMUNITY VISIONING

Statement of the Issues

Like many Small Island Developing States, the Cook Islands is geographically isolated from its larger neighbours, suffers expensive transport costs and is vulnerable to natural disasters. In addition, it suffers from depopulation, as many of its working-age people shift permanently overseas, usually to New Zealand and Australia. Visitors are puzzled why anybody would leave such a place, because they see attractive islands with a wonderful tropical climate. As a person with a vested interest in its continuation as a viable economy, I frequently seek an answer to the question: why are our people leaving? We must surmise that it is more than wanderlust, because I believe the wanderer travels for relatively short periods, then returns home. Cook Islands residents are leaving permanently, so we must consider that they do not see a future for themselves in these idyllic surroundings.

A Possible Solution

I did not know what community visioning is, or what it entails, until I had a discussion with a person deeply involved in the community visioning process in Palau. I realized as we spoke that although the event she was talking about was different from the one I was facing in my own country, the underlying basis for the disquiet was similar. We both felt that development of our islands was being promoted at the expense of our environment and without the full, informed consent of our indigenous people. I wanted to find out more about a process that might solve the problem I kept returning to, so I took heart when I read how it had been developed for rural areas in the U.S.A. and applied usefully in Moloka'i.

The definition reads: *“Community visioning is essentially a long term planning process whereby communities lay out a blueprint for changes they want to see within their communities, they then implement the plan and evaluate their progress on an ongoing basis.”*

One paragraph in particular stuck in my mind: *“More than a century of foreign rule followed by a heavily governed independence (with many decisions made at the Federal level) has removed communities from the decision-making process. Most communities are used to having decisions made for them and are not used to the idea that they have the right to decide their own future, and in fact that they have ownership of and responsibility for their own future and the future of their lands. The Community Visioning Process is attempting to shift the way of thinking and to empower communities to indeed make their own decisions. Next steps will continue to encourage the creation of Vision Statements but will accommodate the slower schedule.”*

I felt that the same judgment could be applied to my own country. Formerly, the traditional leaders of the Cook Islands *maori* (indigenous) people comprising *ariki* (paramount chiefs), *mataiapo* (chiefs) and *rangatira* (sub-chiefs) gathered at their *koutu* (meeting place) to settle disputes. In essence, it was a feudal system with a hierarchy of chiefs, and a complex system of obligations, upwards and downwards. Villagers were expected to take part in community work, and to give offerings (*atinga*) at harvest time, or labour. In return, the chiefs were expected to look after the long-term welfare of their clan or village, do all they could to maintain its *mana* (power and prestige) and to lead by example. In other words, they were to act in the best interests of the community, to many of which they were linked by blood. The clans occupied triangular pieces of land, narrow at the mountain end and widening towards the coast, which provided them with all the necessities of life. A lunar calendar was developed for agriculture and fishing, based on observations over time. Because of their vulnerability, clanspeople kept a watchful eye on their environment. If an area became over-fished, or if the land became barren, there were tribal customs that allowed for remediation.

The main disputes were over land (or territory), which was held in common under the *maori* (indigenous) custom. The word of the chief and his advisors was final, and generally obeyed by the community. The penalties for non-compliance ranged from a fine, through hard labour, to banishment and the death sentence. Internecine warfare was common, and there are many legends telling of rebels who set of in canoes to escape the penalties.

In the early 1900's, the Cook Islands became a protectorate under the law of New Zealand. As part of establishing the colonial government, customary land holdings of the Cook Islands were surveyed in consultation with the *maori* chief system. Individual pieces of land were surveyed and named, using existing *maori* terms and reference points to record the ancient system of land tenure. An alphanumeric surveyor's reference was added, and registers of people with an interest in individual pieces of land were drawn up. These were investigated and now form the basis for the Land Court system. No freehold land was identified; all land was held in common.

The new Land Court system enabled leases to be granted, usually from the indigenous landowners to foreigners and this was the only form of alienation of land permitted. Much of the authority of the chiefs in the sharing of tribal land has been assumed by the Land Court. Many developers, especially foreigners, have complained that the prevailing customary land ownership in the Pacific has hindered development and investment. For the most part, it worked well in that after 100 years the majority of the land is still in the hands of *maori* (indigenous people).

In 1965, the colonial era came to an end and self-government in free association with New Zealand was introduced for the Cook Islands. The Land Court system governing land tenure did not change. However, the creation of a Parliament with its elected representatives meant that a new political system ran in parallel with the older, hereditary chiefly system. In earlier times the chiefs acted as major controllers of land-use, after consulting with their community (with whom they family ties) and obtaining a consensus. Parliament, on the other hand, is basically an adversarial system. The new Members of Parliament, did not rely so much on close family ties. They developed a system of using focus groups in order to gain information about the community.

A lot of investment was put into infrastructure from the 1950's onwards, and much labour was drawn away from agriculture into paid employment. Women began to be employed out of the home, initially as nurses and teachers, and then more widely. Both these changes resulted in the loosening of traditional community ties and obligations. An employee cannot take time to join in with community undertakings or they will be penalized. Political allegiances shifted, as people became reliant on a paymaster, rather than their own efforts.

With increasing affluence from wages, the social structure changed. Formerly, several generations of an extended family lived in one compound, then eventually under one roof in a large central house. As they could afford it, married couples began to move to their own dwellings and live in nuclear families rather than extended families. This has implications for childcare, and the care of the elderly. It has also resulted

in greater for land, as more houses are needed, even though so many are migrating away. The coastal areas are now fully built up, and further expansion must follow the valleys inland. This has implications for watersheds and erosion, which results in degradation of the lagoon waters.

One vestige of the old chiefly system has remained constant, in that the community still looks to its traditional leaders for guidance. The importance of this is recognized by an amendment to the Cook Islands Constitution in 1994-95 where Section 66A states that: *“..Parliament shall have particular regard to the customs, traditions, usages and values of the indigenous people of the Cook Islands” and further “For the purposes of this Constitution, the opinion or decision of the aronga mana ... as to matters relating to and concerning custom, tradition, ... shall be final and conclusive and shall not be questioned in any court of law”*

Traditional leaders now feel that rather than constantly reacting to new issues, they would like to act in a more proactive manner. This will involve consultation with the community to ask how they would like their islands to develop in the future. Intrinsic to this is how to use the diminishing land available, how landowners may articulate their wishes and then ensure that politicians follow their express wishes. In order to do this, traditional leaders need to use all their resources (traditional and contemporary), become conversant with development issues, and marshal all the available resources in order to ensure that their society develops in an equitable and sustainable way. The community visioning project in Palau may provide a suitable means to do this.

A start has been made in that a vision has been set down in the Draft National Sustainable Development Plan (“NSDP”), which has been under consideration for two years now, which says the objective is : ***‘To build a sustainable future that meets our economic and social needs in partnership with government, the private sector and local, regional and international stakeholders, without compromising prudent economic management, environmental integrity, social stability and the needs of future generations’.***

There are also Guiding Principles set out in an Extract from the Draft NSDP, which seem to be in accordance with the principles of Community Visioning, which make reference to the special needs of Outer Islands and other disadvantage communities.

The main challenge is the commitment of carrying out such an intensive consultation over such a long period. The experience of Palau and Moloka’i is that there were long periods of apparent inactivity while the community worked its way through the process. The Policy Division of the Office of the Prime Minister of the Cook Islands has expressed support, after hearing some of the principles explained. However, the tendency is to underestimate the time required, and to look for a “quick fix” solution. But if there is inadequate consultation, and all the views in the community are not heard and noted, then there is less chance of success. But one thing is clear – what we are doing now is not working. The Community Visioning process may be our best chance to regain control over our decision-making, and for decisions to be made in the interests of our communities.

APPENDIX A - EXTRACT FROM COOK ISLANDS DRAFT NATIONAL SUSTAINABLE DEVELOPMENT PLAN

OBJECTIVE

The primary objective of this NSDP is:

'To build a sustainable future that meets our economic and social needs in partnership with government, the private sector and local, regional and international stakeholders, without compromising prudent economic management, environmental integrity, social stability and the needs of future generations'.

GUIDING PRINCIPLES

- 1. Sustainable Development Is A National Responsibility For All Cook Islanders**
 - *means that all people of the Cook Islands have a responsibility to ensure that the three pillars of sustainable development – economic growth, social cohesion and environmental protection – are given balanced treatment to guide the future development of the Cook Islands*
- 2. Democratic Principles, Basic Human Rights, Respect for Cultural, Religious and Ethnic Diversity And The Rule Of Law**
 - *means that every Cook Islander has fundamental rights, which should be respected*
- 3. Equitable Economic Development And Universal Access To Basic Health And Education And Environmental Sustainability Are Essential Prerequisites For Poverty Alleviation, Social Harmony And National Security**
 - *means that only when every Cook Islander has an equal opportunity to benefit from economic development and basic public services, and environment sustainability is assured, can we expect to live a peaceful existence free of hardship, conflict and instability*
- 4. Special Needs of the Outer Islands and Disadvantaged Groups Are Recognised**
 - *means that special consideration is necessary to address the development needs of the outer islands and disadvantaged groups*
- 5. National Development That Reflect Appropriate Regional And International Commitments**
 - *means that development should respond to the needs and aspirations of all people of the Cook Islands, while at the same time, be mindful of commitments that have been made by the Government at the regional and international levels*

- 6. Good Governance Promoted Through Participatory Decision-Making Process At All Levels Involving Key Stakeholders, Including Community, Non-Government Organizations, and Government Agencies**
 - *means that decisions made, and actions taken, by all levels of Government and community are transparent and accountable*

- 7. Coordinated And Harmonized Access To, And Effective Use Of, National Resources And Development Partner Support From Bilateral, Multilateral Development Partners And Regional Organizations**
 - *means that national resources and development assistance are efficiently and effectively used*

- 8. International And Regional Foreign Relationships And Partnerships Must Be Based On Mutual Respect In The Interest Of The Cook Islands**
 - *means that relationships with other nations are based, first and foremost, on what's in the best interest of the Cook Islands*

These guiding principles, together with the 6 priority areas identified during the 2003 National Development Forum (NDF), post-NDF consultations, the Cook Islands Constitution and regional and international commitments, have led to the formulation of the following **9 National Development Goals (NDPs)**. The NSDP identifies a set of strategies required to achieve each of the following goals, key outcome targets to measure progress within the period of the Plan, and the government agencies responsible for coordinating the activities required to achieve these targets.