

Tongan Political Reform: The Odd-One-Out in Pacific Politics

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Abstract

The nationalist ideal prescribes that government and authority should fit cultural values and ideas, but constitutions have come into being especially in the former colonial world in order to ensure that justice, fairness, good governance and opportunity are protected from the influences of culture. Constitution-making in the Pacific Islands therefore invariably reflected non-Pacific cultural values and ideas.

Tonga is unique in the antiquity of its constitution was adopted in 1875 specifically to demonstrate to the international community that Tonga had a government that was differentiated from culture, and therefore able to meet international requirements for recognition and independence.

Over the next century, culture adapted to the constitution and constitutional practice evolved towards culture. In the 1980s the rapprochement of culture and constitutional practice showed incidents of misgovernment and injustice, leading to a protest and reform movement, which if successful, would sharpen the distinction between constitution and culture.

Constitutional reform ultimately came about less because of popular pressure than because of royal preference. Despite the apparent popularity of the reform movement, there was little public support for constitutional revision. The reforms as adopted preserve for Tonga a constitution which is in closer accord with current cultural ideas than elsewhere in the Pacific, and are unique in being the product of an exclusively Tongan dialogue.

Key words: constitution, culture, nationalism, reform, Tonga

Some Background

When the modern idea of nationalism was first developed in eighteenth century France, it was argued that a nation was a natural creation. The human race was composed of a number of distinct populations, each with its language, religion, ideas of law and justice, and its own characteristic forms of artistic expression. Each of these groups was called a 'nation' that is, people sharing a common birth or ancestry, and each fitted by nature for its distinctive cultural characteristics. It was not only just, but in the interests of human happiness, that people be governed according to their own culture, by members of their own nation.

In international politics, however, things have never been so simple. The nationalist ideal as expressed in this way is really only to be found historically in primitive tribal societies at a sub-state level of organisation. Modern nation-states more commonly included people of more than one 'nation', and few are truly mono-cultural, though most have one culture that is dominant. When new states were created in the break-up of the global colonial empires it was often only the colonial tradition itself that gave any common identity, having brought together peoples of different languages and traditions within the same border and under the same law. The new states of the 'third world' were very seldom natural 'nations' in the original sense of the word.

Consequently, the nationalist ideal that a country be governed according to its own traditional ideas is impractical because there is no common tradition in such countries. Moreover local traditions often conflict sharply with modern ideas of universal human rights. If traditional ideas of government were undemocratic, and did not respect individual rights to life, justice, education, health, freedom of speech, freedom of worship and freedom of assembly and equality of opportunity, then 'national' tradition would certainly be subordinated to the new international tradition of the post-war United Nations ideals.

When decolonisation was being negotiated in the various Pacific Islands territories mainly in the 1960s and 1970s, these ideals were dominant, but there was also a sentimental desire that these be adapted to or expressed in traditional ways, or that somehow elements of tradition be incorporated in the new state constitutions. For example, in Melanesia, propagandists claimed that democracy was congruent with Melanesian traditions of egalitarianism, and that the common 'big man' style of wealth accumulation and rise to power could be transposed into a capitalist, democratic ethos. In practical terms, however, tradition found little place in the independence constitutions other than in creating limited privileges for chiefs, such as in advisory councils on traditional affairs. There is in fact an enormous disjunction of culture and law, and it is not too much to say that the reason for having a constitution is to ensure not that government is in accordance with culture according to the nationalist ideal, but to ensure that culture is NOT in accordance with culture. Culture in the Pacific is inimical to good governance¹.

All Pacific Island nations have constitutions that were drafted in this period, and reflect these currents of thought. All, that is, except one. The exception is Tonga. Tonga met the original 'national' definition in being a homogeneous people, exclusively occupying their own territory, and sharing a common language and culture. Tonga is still governed by a constitution originally promulgated in 1875, making it one of the oldest surviving constitutions in modern history. By the standards of the late 19th century it was a liberal, progressive, and democratic constitution. Its concessions to Tongan culture were minimal. On the contrary, it was an early recognition of the modern truth that constitutions are opposed to culture. When this constitution was adopted, the old chiefly system was abolished. In its place, a new aristocracy was created, which was modelled on British

1 There is an extensive literature on modern Pacific politics in which a recurrent theme is corruption and poor governance which is sometimes attributed to the continuing influence of traditional ideas and obligations. See for example Ron Crocombe, *The South Pacific*. 7th ed. University of the South Pacific, Suva, Fiji, 2008.

aristocracy more than Polynesian chieftainship. Like British lords, the new nobles were entitled to sit in parliament, but instead of being in a separate house, they met with elected representatives of the people. Even the terminology changed: ‘chiefs’ in Tongan were called ‘eiki’; the modern nobles were called ‘nopele’.

The administration of justice was not in accord with culture: in traditional times, chiefs were the source of law and the dispensers of justice. Henceforth, parliament in partnership with the king made the laws; the laws were enforced by the police; justice was administered by the courts under a chief justice. Government instead of being personal became bureaucratic or office-based, conducted by appointed officials. The constitution guaranteed freedom of the press, freedom of worship and freedom of assembly².

The history of the constitution shows that Tongans were slow to grasp its meaning and significance. Tongan leaders themselves generally ignored much of what it prescribed, and the process of trying to make Tongan society conform to the constitution is an object lesson in structural and cultural disjunction. Government functioned at one level. The organs set up by the constitution operated much as intended though with a low level of efficiency. The mass of the people, however, lived their lives as if nothing had changed. Over a century later, the constitutional provisions still have very little impact on or significance for the lives of many Tongans. Nevertheless during the course of a century or so, Tongan society made many adjustments, as culture came to conform more closely to the constitution. The respect for the old chieftainship gradually lessened, nobles asserted their precedence in society, laws did not come into being without passing through the prescribed processes of cabinet, parliament and royal assent.

Therefore, by 1970 when Tonga emerged from a long period of British protection and supervision³ Tongans had become sufficiently accustomed to the constitution as to regard it as part of their cultural tradition, and the nobles as their traditional leaders. The constitution had become embedded in culture. None of the territories that had become independent by then (Western Samoa 1962, Nauru 1968, Fiji 1970, Cook Islands [self-governing] 1965) nor any of those whose constitutions would be written during the following decade would have such an intimate connection between culture and law as a century of adjustment had given Tonga⁴.

From about 1990 demands arose for a new constitution for Tonga. The more radical demands were that the link between culture and constitution should be broken. This would mean stripping the king of his powers, removing the provision for noble representation in parliament, and removing the nobles’ influence in questions of land distribution.

2 Sione Latukefu, *The Tongan Constitution*. Tonga Traditions Committee Publication, Nuku’alofa, 1975. Chapter 4.

3 During the age of colonialism, Tonga was never annexed, but was a British protectorate. It continued to be governed under its own constitution throughout this period, but with limitations on its independence. The connection was terminated in 1970 and Tonga regained full national sovereignty. Latukefu, *The Tongan Constitution*, chapters 5 and 6.

4 Ghai, Yash P. (ed), *Law, Government and Politics in the Pacific Island States*. University of the South Pacific, Suva, Fiji, 1988. For Tonga, ‘Epeli Hau’ ofa argued at a public seminar in 1992 that Tongan society had become democratic, citing the government of the Tongan Free Wesleyan Church which had run on democratic principles for generations.

Government instead would become wholly democratic, with ministers answerable to the representatives of the people, who in turn would answer to the people at regular elections. These requirements might have been met in a variety of ways. Less radical proposals were that a new relationship between culture and constitution should be worked out, that would strengthen the democratic elements without degrading the king or nobility. This alternative also might have been possible in a variety of ways. At the core of the debate was a conflict of values as to whether a constitution should express culture, or whether it should be rigorously universalist⁵.

Towards or away from Tradition?

After twenty years of political confrontation and stalemate between government and its critics the constitution was amended in 2010. The changes are significant, and the question arises whether these amendments remove the intimacy of constitution and culture, or whether they achieve a new intimacy, bringing the constitution into line with an evolving culture.

The main changes of 2010 shift the focus of power away from the monarchy, more towards elected representatives. It is unquestionably a step in the direction of democracy. The amendments may be summarised briefly. Hitherto the government consisted of the king and his ministers, much as in the American constitution. Together, they were termed the Privy Council preserving the idea that the king ruled as well as reigned, with the assistance of his chosen ministers, who were selected from society at large, not from parliament. These were usually nobles or senior public servants who were elevated from being head of their departments to the cabinet. The Privy Council formulated policy, made executive decisions, and considered legislation. Proposed legislation including budget estimates were then transmitted to the single chamber of parliament where the ministers now sat as members along with nine representatives of the people, and nine representatives of the nobles. The role of the parliament was to consider the legislation, propose amendments and pass it or reject it. The assent of parliament was necessary for laws to be enacted, but the role of parliament was subordinate. Government was thus appointed, not elected, and had a strong hereditary component. In this way the Tongan government was often thought to be very traditional: if the formalities and details of the constitution are taken out of consideration, the form of government broadly resembles tradition: the greatest chief meets with those of his senior chiefs in whom he has most confidence to make the important decisions; these decisions are then referred to a wider, more representative body of chiefs for comment and

5 These questions are posed in Stephanie Lawson, *Tradition versus Democracy in the South Pacific: Fiji, Tonga and Western Samoa*. Cambridge University Press, Melbourne, 1996. The process is documented in several articles including among others, I. C. Campbell, 'Across the Threshold: Regime Change and Uncertainty in Tonga 2005-2007.' *Journal of Pacific History*, 43(1): 95-109, 2008; 'The Quest for Constitutional Reform in Tonga.' *Journal of Pacific History*, 40(1): 91-104, 2005; 'The Doctrine of Accountability and the Unchanging Locus of Power in Tonga.' *Journal of Pacific History*, 29(1): 81-94, 1994; 'The Emergence of Parliamentary Politics in Tonga.' *Pacific Studies*, 5(1): 77-97, 1992.

review. Finally, nothing was done without the explicit approval of the greatest chief - or in modern terms, legislation was promulgated only after the signature of the king was applied to it.

Under the new form, the king's powers are delegated to the prime minister, creating a distinction between head of state and head of government, as in the Westminster system. Parliament henceforth chooses the prime minister from among its own members, and the prime minister chooses his cabinet from within parliament, though provision remains for up to four ministers (equaling up to one-third of the cabinet) to be brought in by nomination from outside parliament. The size of parliament has been increased to accommodate the need to appoint a cabinet, and also to give better representation to the people. The people now elect 17 representatives, and noble representation remains unchanged at nine. The nobles' representatives are elected by the nobles, not by the people. The king therefore appoints as prime minister and other ministers those members of parliament who are recommended to him by parliament, and these may be either people's representatives or nobles' representatives. The old Privy Council is abolished, the king will no longer meet with cabinet and will have no direct role in framing policy, legislation or executive decisions. All of those functions have been devolved to elected members of parliament, and when the exercise of authority by the king is necessary, he will act on the advice of the prime minister. There are some exceptions to that: his signature is still required for legislation and he can withhold that and veto the legislation; further, he appoints judges, and does so on advice from non-political advisers; and he retains the prerogative of mercy⁶.

To mollify the traditionalists, the case could be made that this power structure is a return to a pre-constitutional tradition, that of dual leadership in ancient Tongan society. Before the political upheavals of the nineteenth century, the supreme chief, called the Tu'i Tonga, had acquired such an aura of sanctity that he was detached from ordinary political life. The practical business of managing affairs was taken over by either of two senior chiefs, initially the Tu'i Ha'atakalaua and in later centuries the Tu'i Kanokupolu. These were working chiefs, who would lead in time of war, regulate inter-tribal relations, oversee the preparation of festivals, and generally control the production and distribution of resources. There is an analogy between the aloof and distant high chief, separate from daily affairs, and a king who has likewise withdrawn from active political activity and practical management of the affairs of state. The prime minister is analogous to the working chief who stands between the high chief and the mundane affairs of the community. Similarly, a distant and tenuous analogy might be drawn between elected members of parliament and the various district and tribal chiefs who were closest to the people. Members of parliament submit themselves every four years (previously three years) to the judgment of the people who will confirm them in office or replace them with someone else. There was no elective component in traditional times, but a chief was chosen not strictly on hereditary grounds, but as the most suitable person from within the chiefly family. It was possible for a chief to be deposed, for his title to be taken away and given to another, or for a chief who through

6 The constitutional amendment legislation can be found at <http://crownlaw.gov.to/cms/legislation/2010.html>.

age or other reason was no longer an effective leader. In a case like that, another chief might take over the role of leadership⁷.

It was, admittedly, and as far as is known, rare for a chief to be deposed, or to be replaced in leadership by another, but if the idea was there that is sufficient to claim that the modern parliamentary rules have their seeds in earlier political conventions. This is far-fetched, but may serve to show that that resemblances are close enough for modern forms to be made recognisable to traditionalists.

Most aspects of the constitution remain unchanged by the amendments: noble representation in parliament is unchanged as are the rights and privileges of the nobles generally. The rights of the people are unchanged, franchise is universal as before, qualifications for office have been amended to accommodate the change to single-member constituencies, protection of the person of the king is as before, as are the rules of inheritance. The land tenure provisions of the constitution are unchanged.

Interpretation

Significant changes do not happen without good cause, and it is significant that the changes are mostly confined to re-allocating authority in the state. This, indeed, is what demands for change over twenty years focussed on. The reason for the change therefore has to do with a contest for power in which the people have acquired authority previously possessed by the king. Obvious as this explanation may seem, there are alternative hypotheses.

1. The 'modernisation' theory: a triumph of universal values over cultural particularism

In terms of modern social or structural history, the change can be explained in terms of the broad processes of social change. An underdeveloped, isolated community came into increasing contact with the outside world introducing new ideas, new technology and new economic activities. These called for a form of government better suited to changed circumstances, and appealed to people who were admirers of the achievements of developed societies.

There is considerable merit in this hypothesis. From 1965 to 2006 Tonga was ruled by King Taufa'ahau Tupou IV and his government. His cabinet was composed of nobles, and a few high-born educated commoners, men who in former times would have been chiefs. This reign was a period of considerable material and social progress, but it was accompanied by occasional instances of abuse of power, an intolerance of dissent and an unwillingness to take account of public opinion. These characteristics resemble traditional notions of chieftainship, so it may be concluded that although the form and structure of

⁷ Traditional leadership is well described in Elizabeth Bott, *Tongan Society at the Time of Captain Cook's Visits. Discussions with Her Majesty, Queen Salote Tupou*. Polynesian Society, Wellington, 1982. See also Sione Latukefu, *Church and State in Tonga: the Wesleyan Methodist Missionaries and Political Development, 1822-1875*. Australian National University Press, Canberra, 1974, chapter 1.

government and its procedures were western and reasonably liberal, the morality and value system that infused it was still Tongan with strong traditional influence. While this gives the appearance of a successful integration of tradition and modernity, it was actually a case of 'false consciousness': Tongan politics and administration harboured a contradiction wherein the constitution and laws said one thing, but some practices continued otherwise.

However, in the 1970s when dissatisfaction arose it was probably not primarily because of this mis-fit between political structure and culture, but rather from more conventional causes. Tongan culture was changing as a result of better education and new economic opportunities. Increasing numbers of children were staying at school for the maximum period available, and with the opening of the University of the South Pacific in Fiji in 1968, increasing numbers were obtaining tertiary education. Inevitably, the emergence of a more educated public, people became restless with methods and privileges that were more tied to rank and connections than to education or efficiency. Similarly, economic growth was creating a small class of people who could generate wealth that exceeded that available to nobles. In this way both the traditional and the modern aspects of government were likely to be confronted by a further modernisation process taking place in society - modernisation that would lead to a demand for democracy.

Tupou IV's government was a modernising government. The increased educational and economic opportunities did not happen automatically but were the result of considerable determination and effort to overcome the natural disabilities of isolation and resource poverty⁸. What was not built into the modernisation plans was any idea of political change. On the contrary, king and nobles alike were convinced of the aristocratic ideal, that as in the original, classical meaning of the word, 'aristocracy' meant 'rule by the best' and in their view, the 'best' was associated with breeding. The idea that suitable character and ability could be found among the common people, and that other commoners were suited to choosing who their best leaders might be simply made no sense⁹. As the king said, democracy leads to coups and dictatorships, whereas monarchy protects the rights of the people. However, in 1976, the king foreshadowed a constitutional reform which would increase the numbers of popularly elected members of parliament, who at that time numbered seven. Six years were to pass before this modest reform took place, and then it merely increased the number to nine. It also increased the number of nobles' representatives to nine, and made no difference whatever to the structure of government¹⁰.

Thus, modernisation created the conditions and the demand for democratisation, but that was not sufficient for other structural reasons: the king and nobles had sufficient power constitutionally, and sufficient prestige traditionally, to resist calls for modernisation. Their position was secure, and Tongan ideas of respect for authority and social stability meant that extreme action such as would have been necessary to overthrow the regime, would not occur.

8 Successive development plans record this process beginning with Tonga, *Development Plan, 1965-1970*, Nuku'alofa, 1965, and continuing at five-yearly intervals.

9 Hon. Ma'afu, 'Land - from the Landlord's View.' Tonga Council of Churches, *Land and Migration*. [Nuku'alofa, 1975] pp.1-3. Pesi Fonua, 'The King, Guardian of Popular Leadership.' *Matangi Tonga*, 5(1): 1-12, 1990.

10 *Tonga Chronicle*, June 1975 and *Pacific Islands Monthly*, September 1981.

2. Populism triumphing over absolutism or oligarchy

Nevertheless, perhaps popular pressure eventually overcame the inertia of the governing elite. This hypothesis presupposes a 'tipping point' theory of social change: that a system can tolerate a shift in forces without any visible stress, up to a point. At that point, the balance of forces appears to shift and the former structure is overturned, often by an event that seems disproportionately small for its effect. For much of the period, this hypothesis appeared to be plausible and to have predictive value. The question would have been 'when is the tipping point to be reached?' or 'what final stress is sufficient to cause the shift in power to take place?'

The demand for reform was the inevitable consequence in the long term of modernisation; the more immediate causes had to do with grievances over land tenure and the probity of government. After various mild expressions of popular discontent in the 1970s a more strident and determined effort was made in the 1980s to encourage dialogue about reform. In the past, calls for reform and criticisms of government were made in parliament where they would be least effective because they presupposed that government would reasonably accept what was said about it, and make changes. Parliament had no control over government or any means of compelling it to make changes. In the 1980s, by contrast, critics worked outside parliament, endeavouring to build public opinion and so exert mass pressure on the government.

In 1981 a school teacher, 'Akilisi Pohiva, began a radio current affairs programme in which he convened a panel once a week to discuss public affairs. Criticisms of government were inevitably made, with the result that without warning in 1984 the programme was prohibited and Pohiva dismissed from government employment. Subsequently, Pohiva with the assistance of other public servants began an occasional newsletter¹¹ which tried to do on paper what the radio programme had done on the airwaves. Revelations about government made in this way in 1986 caused a national furore, and led to an unprecedented turnover of people's representatives at the next parliamentary election in 1987. The new parliamentarians were educated, and committed to raising standards of government, and used their opportunities in parliament to attempt to hold government to account, to have it explain itself, and demand that it include parliamentarians in the important work of policy formation, rather than merely approving government proposals. Moreover, they by-passed parliamentary processes periodically to appeal directly to the king, organising mass protest marches to deliver petitions directly to the king calling for reform or redress of grievances. These periodical protest marches from the late 1980s to 2005 had no effect, and brought no response.

In the early stage, the advocates of reform demanded only two things: first that government exercise higher ethical standards, and second that it allow members of parliament a more constructive partnership role. None of this required a structural change, or any constitutional change. It was merely a matter of infusing a new, less traditional spirit into the existing constitution and the practices that it prescribed. At precisely the same time, a political crisis in Fiji generated a sentiment around the Pacific that the colonial

11 *Kele'a*, began publication in 1985.

constitutional legacy did not suit Pacific societies because the various constitutions allowed too little room for tradition. Tongan reformists were demanding almost exactly what people elsewhere were rejecting.

By 1990 it was becoming clear that the government would not respond to the demands of the new People's Representatives, and that much as it wanted to continue with economic reforms and growth, its intention was fixed that this should be done within the existing framework of power. What was obvious to others, that economic and educational progress must inevitably lead to political change, was far from being the conclusion drawn by the king and nobility. Consequently, the reform movement evolved from simply wanting a correction of government, to wanting structural change. The demand for accountability led to considerations of how accountability should be delivered, and that led in turn to the adoption of the goal of democracy.

The movement initially achieved exceptional popularity. If people did not understand the existing constitution, or possible constitutional alternatives, or even what was meant by democracy, they could understand and identify with evidence of corruption, allegations of unfair treatment and in the repeated prosecution of Pohiva for libel and sedition, they could sympathise and identify with him, and give him moral and material support. To the people, Pohiva and those who stood with him were seen as the champions of the 'little people', the poor, powerless and ignorant.

Converting this popularity into an effective political force, however, required two conditions that were not present. One was a greater degree of suffering on the part of the people. In fact, as the UNDP Human Development Report showed year after year, Tongans were relatively well off among Pacific Islanders. Individuals like Pohiva might suffer for their outspokenness, but most people had more than enough to eat, were well housed, had access to health facilities, and there were schools for their children. Few people had cause to test whether their rights as guaranteed in the constitution were respected by the authorities. Raising their own living standards was more important to them than political abstractions. In other words, there was not sufficient dissatisfaction to arouse the people to direct political action or threaten the regime.

The second prerequisite was organisational ability and unity on the part of the reformers. After the superficial idea was accepted that accountability and ethical conduct in government were desirable, there was little agreement on how those things should be achieved, or what form of government would best ensure them. Therefore, although a public seminar held in Nuku'alofa, the capital, in December 1992 was a massive propaganda success for the reformers, and very encouraging to them for the dialogue about reform that it created, it was firmly rejected by government. Attempts to capitalise on the momentum of the seminar were disappointing. Public outreach activities followed, but produced no result, and while elections continue to show strong support for the reformers, that support did not grow. Indeed, it fell slightly during the 1990s. The reformers themselves were disunited, quarrelled among themselves, had divergent objectives and disagreed on tactics. Attempts to form a political party were embarrassingly unsuccessful. In a word, the movement lacked effective leadership.

This was the way things continued throughout the 1990s. It was a political stalemate: the government could not win the public-relations contest, and the reformers could not bring enough pressure to bear on government to make the changes that they wanted. Constitutional reform was out of the question.

By 2002 the ‘tipping point’ if there was one, had not been reached, but in 2005 a crisis arose which brought government and people into an extended though non-violent confrontation. Even this was not the tipping point. The affair followed attempts by government to implement structural, public sector reforms in accordance with prescriptions by international financial and aid organisations to raise productivity, reduce waste, encourage private enterprise and eliminate corruption. These reforms were resisted by civil servants and by other interested groups. As part of these reforms, government proposed to adjust public service salaries as well as decrease the number of public servants. Some public servants disagreed with the salary adjustments as inequitable, and instigated a strike that lasted for 14 weeks and brought the economy and most of the work of government to a halt. Such was popular solidarity that government was unable to end the strike other than by conceding the demands in a very humiliating back-down. Strikers demanded the resignation of the prime minister and otherwise showed extreme displeasure with, even contempt for, government.

The strike settlement presented the government with a serious economic and financial problem, and elements of the public maintained a continuous demonstration outside parliament for the next year. However, the worst of the crisis passed without the tipping point having been reached.

The final stress triggering the tipping point might not have been popular action, but ‘loss of nerve’ or loss of confidence by the ruling elite.

3. The royal ‘loss of nerve’ hypothesis

The arrival of a tipping point might be hastened if the authorities, fearing the worst, give in before reaching the time of critical danger. In such a case the transition might occur peacefully, or even without the power structure being overturned. In the crisis of 2005, the government conceded demands of the strikers over the matter of salaries and the conditions that were attached, but showed no signs of any loss of confidence or any inclination to change the personnel in government or entertain other reforms. Between 2004 and 2006 several important steps were taken that were initiated by the then Crown Prince, Tupouto’a (Prince Taufa’ahau).

At the end of 2002 government made a serious mistake. Irritated by a popular newspaper that was prominent in giving it bad publicity, the government decided to introduce legislation to control the media. As the government tried to explain, this would merely bring the print media under the same regulations as already applied to broadcasting media, but media spokespeople pointed out that the measures were not only a serious threat to journalistic independence, they actually jeopardised the viability of the news businesses¹².

12 Reports in the news magazine *Matangi Tonga* and *Matangi Tonga on-line* for 2003 and 204 record this story as it unfolded.

A series of supreme court judgments in 2003 and 2004 eventually overturned the purported media regulatory legislation, but the affair exposed high level incompetence and division within the government. In the meantime, other shortcomings reached serious levels including loss of government investments, and the collapse of the government-owned national airline. Between 2002 and 2004 five government ministers were forced by members of the royal family to resign. These events were unprecedented in Tonga's constitutional history.

The year 2004 was a turning point in the history of constitutional reform, but not because of popular pressure or the arguments of the reformists. The initiative came from an unlikely direction - the royal family itself. Towards the end of the year, a nephew of the king, Prince Tu'ipelehake, moved in parliament for the establishment of a committee to investigate popular feelings about the need for reform. The motion was bitterly opposed and passed only when the nobles agreed to support it on the insistence of the Crown Prince¹³. Shortly afterwards, the government announced that after the next election, to take place early in 2005, elected representatives of the people and nobles would be taken into cabinet, as a step towards further reforms. This step, though attributed officially to the king, was also the initiative of the Crown Prince.

The cabinet appointments were duly made the next year, but government made no move to act on the resolution reluctantly passed in 2004 for a national committee. Tu'ipelehake was rejected by his fellow nobles at the 2005 election, and again at a by-election shortly afterwards. Only at a second by-election was he able to re-enter parliament, and revive his motion. Government now with clear reluctance agreed to establish the committee, but only after the intervention again of the Crown Prince¹⁴. The People's Representatives who had called for reform for so long, were almost as unwilling as the government to cooperate with the committee which took the name 'National Committee for Political Reform.'

The purpose of this committee was to engage in dialogue with Tongans all over the country, and those abroad as well, to find out what the people really understood about the need for reform. What they found was that the people were ill informed about the structure and processes of government, that they cared little for reform, but wanted better economic and educational opportunities, and better service from government. It was a perception that focussed on the administrative rather than political context of government. Thus despite the inflammatory events of 2005 and the success of the strike, the mass of the people showed no inclination to endorse those actions to the point of constitutional change. However, despite the conservatism and even incoherence of popular views, the National Committee's report made specific recommendations for constitutional amendment. Calling on the language and concepts of traditional values, these recommendations were fairly conservative, recommending little more than that the number of People's Representatives in parliament be increased, and that prime minister and cabinet members be chosen from among the members of parliament. The emphasis in this was evidently keeping the constitution close

13 *Matangi Tonga* October 2004.

14 Lopeti Senituli, 'Kava Huo Keka.' Letter to *Tonga Now* 17 December 2005.

to what had come to be perceived as Tongan traditional government.

On the whole this gave the reform campaigners largely what most of them said they wanted but there were details that needed to be worked out, and the report itself recommended lengthy deliberation and discussion, and a staged implementation of reform over four years. However, when the government attempted to establish a balanced parliamentary committee to resolve some of these details, and presented some alternatives to the National Committee's specific recommendations, the expected consensus and cooperation was not to be found. Therefore, again, pressure was not building on the government to introduce particular reforms.

By the time the National Committee's report was presented at the beginning of September 2006, a profound change had taken place in government. The old king died shortly after receiving the report, but for the previous two years the Crown Prince had been asserting increasing influence - hence the establishment of the National Committee, and the promotion of elected members to cabinet. In February 2006 he forced the resignation of the Prime Minister and appointed one of the people's representatives in cabinet to replace him. The new Prime Minister, Dr Feleti Sevele, had been a prominent advocate of reform for many years, and promptly made some important changes to cabinet. Thus, by the time the National Committee's report was presented to parliament, Tonga had a government quite different in personnel from that which had appointed the committee: a new head of state, a new prime minister, a substantially new cabinet, and a totally different outlook on the question of constitutional reform. Indeed, this was an unprecedented opportunity for reform advocates and government to work together to produce constitutional amendments that would meet the criticisms made of the previous government for so many years, and forge a new harmony between traditional values and universalist principles.

This was not to be. Instead, the leading People's Representatives in parliament opposed the formation of a parliamentary committee, and demanded immediate decisions on the National Committee's recommendations. While objecting to the government's having made alternative proposals to be considered with the recommendations, the Representatives also wished to modify them, but did not agree themselves as to what they should be. Finally, the Representatives abrogated agreements that they had made with the Prime Minister about procedure. Consequently, the next stage in the reform was delayed for so long that the parliamentary session was about to end without a decision on it, or without having passed other vital legislation. Meanwhile, the representatives resorted to direct action in encouraging a large and aggressive crowd to demonstrate for weeks on end outside the house of parliament, and on 16 November (2006) elements in the crowd used violence, stoning the parliament, the prime minister's office, and burning and looting selected businesses in the capital. Eight lives were lost when looters in a burning building were overcome by smoke¹⁵.

In this way the reform which had come so close to being agreed on through the intervention of the Crown Prince was delayed, and might have been lost altogether but for the government's determination to proceed. Nevertheless, when parliament reopened in

15 See *Matangi Tonga on-line* (www.matangitonga.to) for contemporary reports.

2007, the Representatives again took a confrontationalist, even obstructionist position. The parliamentary committee to consider the reform proposals was formed despite the opposition of some of them, but its meetings were unproductive and marred by ill-will, and after it presented its report, the Representatives who had been members of the committee, repudiated it. An entire year was lost, and the parliamentary term came to an end.

No further progress could be made with reform until after the 2008 election, and when parliament reconvened, the government introduced legislation to establish a royal commission on constitutional and electoral reform. Again this was unnecessarily contentious, but when the bills eventually passed, the reformist members of parliament claimed the credit for having achieved victory in passing a measure that they had opposed. The Constitutional and Electoral Reform Commission had a different purpose from the earlier National Committee on Political Reform. The Commission's job was to call for written submissions as to what reforms should take place, subsequently hold public hearings for oral submissions to be made, deliberate on these and recommend specific, detailed amendments to the constitution. It was also to draft the necessary legislation. In this way any doubt as to what was intended in the recommendations would be eliminated, and parliament should be able to proceed expeditiously.

A very tight schedule was prescribed for the work of the Commission, and it presented its report on 5 November 2009. Reform advocates welcomed it, but as before wished to dispute its recommendations, and parliamentary discussions continued to be accompanied by much ill-feeling, confusion, inconsistency and antagonism. Not all of the Commission's recommendations were accepted, and the amendments in the end generally accorded with the government's wishes as to what form the reforms should take.

It is claimed by many commentators that the riot of November 2006 caused the government to give way and concede reforms. Had the details of chronology been slightly different it would be difficult to refute this interpretation. However, the new king and his prime minister had long since made up their mind that Tonga's constitution should be amended, and the process of doing so was delayed for a year by the nobles in 2005, and for another year by the people's representatives in 2007, and by further delays in 2008. The reform happened therefore not because the king and prime minister were being pushed by parliament and people, but because the king was doing the pushing against the reluctance of the nobility, and the erratic defiance of the people's representatives. Mass pressure disappeared after the November 2006 riot. Thus, it was not royal 'loss of nerve' that caused the reform, but royalty keeping its nerve in the face of strong provocation on the one hand and obstruction on the other.

Some Conclusions

It is very clear from the sequence of events after the formation of the National Committee for Political Reform in 2005 that the most important advocates of reform were not interested in working with government towards reform. It was as if after twenty years

of criticising government, attacking and antagonising it, and of the government responding in a similar manner, that the good-will necessary to recognise and accept concessions no longer existed. Indeed, the personnel of the reform movement had changed quite considerably during this time. Early guiding figures had died, or become too old to continue the campaign; many moderate figures had been alienated by the lack of unity and clear objectives, and by the personal animosities that disagreements within the reform movement had created. Further, in 2005 the public service strike and public service rejection of a comprehensive public sector reform programme brought new and more radical people into the reform movement. These included people whose conduct and words suggested that they were more interested in taking over government themselves than in reforming it in the interests of justice and honesty. The parliamentary element in the reform movement appears to have come under the influence of this more extreme and dangerous element. This shift in the complexion of the reform movement is ironical: in effect it seemed to be working to defeat the very principles with which it began.

There is irony also in the fact that there was very little popular support for or understanding of political reform. The reform movement had over the years made a massive effort to educate the public, convey its ideas, and attract support. The initial incident that launched popular protest was a scandal revealed by Pohiva in his newsletter, *Kele'a* in 1986 concerning parliamentary salaries. *Kele'a* gained wide circulation, and eventually evolved into a regular weekly newspaper. It was used by Pohiva as the main means of revealing inside information about government and often alleged corruption. Another newspaper, *Taimi 'o Tonga*, founded in 1989 likewise enjoyed wide circulation and lent itself to publicising the activities of Pohiva, the misdeeds and alleged corruption of government, and the merits of democracy. Frequent litigation involving Pohiva and sometimes others kept his name and his battles with government in the headlines and added to his popularity and influence. Public seminars, and especially the widely publicised one of 1992 and others in 1998 and 1999 served to create publicity and also to inform the public about constitutional facts and alternatives. Workshops and other public education strategies attempted to reinforce the effect of these public events. At election after election, Pohiva and those close to him campaigned on the need for democratic constitutional reforms and won sweeping victories, with the total vote for candidates identifying themselves as reform candidates sometimes over 60% and never less than 50%. People turned out at popular demonstrations to march through the capital and sign petitions in their thousands.

Nevertheless, attempts to form political parties in the 1990s and 2000s failed to attract popular membership. Pohiva's popularity and the admiration for him did not mean that people understood or agreed with what he was saying.

Both the National Committee for Political Reform and the Constitutional and Electoral Commission in their public hearings discovered massive ignorance among the general population about the constitution, how government worked, what democracy was, and what was meant by 'reform.' There was in fact widespread indifference to politics and parliamentary affairs, and an overwhelming concern for secure livelihoods and a better relationship with government offices. The reform therefore ran ahead of or quite

independently of a popular mood in favour of change.

Popular opinion was discovered to be conservative, cautious, ignorant, and anxious, not eager for reform. In modern times despite mass education there is a major disjunction between popular culture and elite culture especially as the latter relates to governance. The current reforms do not return the constitution to an indigenous cultural base either, but nor do they reflect the wishes and values of the social elite. It may be described as a semi-democratic coup, engineered from above.

The reforms that were adopted shifted the focus of authority in government from the king and his cabinet to the prime minister and parliament. This is a very significant change and represents a major step away from cultural traditions about chiefly authority, as well as a major shift from the constitutional position of 1875 which had become incorporated into popular ideas of culture. Although a good deal of rhetoric was used in the report of the National Committee for Political Reform and subsequent documents to attempt to justify the reforms as being in line with and validated by traditional political and social concepts, there is in fact very little that can honestly be called traditional. In fact, nothing remains of tradition in the constitution except the respect and honour due to the king and this is not uniquely Tongan. It is merely consistent with Tongan respect for those of higher rank.

Unlike other Pacific constitutions these reforms are the result of dialogue within the Tongan nation, with minimal contribution from outside authorities. In this it is quite dissimilar from the constitution making process of all the other Pacific states with the exception of Fiji after 1987¹⁶. Only in this respect can the nationalist ideal be said to have been met; in all other respects universalism is in the ascendant.

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16 In 1990, following the two military coups of 1987 in Fiji, the independence constitution was discarded, and a new one written. This was extensively amended in 1997. At both times the process was controlled by and conducted by citizens of Fiji. Foreign influence was brought in not via foreign advisers but by using precedents drawn from the earlier constitution, and research into constitutions elsewhere. The Fijian constitution therefore may now be called autochthonous in a way similar to the Tongan though it appears to owe nothing to traditional Fijian ideas.

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