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TONGAN ADOPTION BEFORE THE CONSTITUTION OF 1875

by

Charles F. Urbanowicz
California State University, Chico

ABSTRACT

This paper is an ethnographic reconstruction of aboriginal adoption transactions. It is based on recent (1970 and 1971) field work in the Polynesian archipelago combined with archival research on extant nineteenth century documentation. The paper deals with adoption transactions prior to 1875 since aboriginal adoption, as well as numerous other aspects of aboriginal culture, were radically altered as a result of European influence. The Tongan Constitution of 1875 is a landmark for any discussion pertaining to Tonga, for at that time various alterations were rigidly introduced into Tongan culture.

Introduction

The Polynesian Kingdom of Tonga is currently a Constitutional Monarchy under His Majesty King Taufa'ahau Tupou IV. The territorial boundaries of the island kingdom were proclaimed by King George Tupou I (a great-great-great grandfather of the present King) to be 15°S and 23°S and 173°W and 177°W (Anonymous 1887). The islands of Tonga thus fall within a rectangle of the South Pacific some 596 miles north-south by 264 miles east-west.

In approximately 1800, Goldman's most useful "terminal date" for aboriginal Polynesia in general (1970: xxviii), a numerical "guesstimate" of the Tongan population would probably fall within the range of fifteen to twenty thousand individuals. The most frequently cited figure for early nineteenth century Tonga is that of 18,500 recorded by the American Commodore Wilkes in the year 1840, from data provided by the local Wesleyan missionaries (Rabone 1845:III:29). However, as McArthur has accurately pointed out, this figure is grossly at odds with a Wesleyan guesstimate of 50,000 Tongans for the year 1847 (1967:74; *vide* Lawry

is probable that should this take place a war would be the immediate consequence [Stress added] (W. Cross *Letter* of July 1, 1830).

The *Tu'i Kanokupolu* was not deposed and a war did not take place at that time. The examples indicate, however, the flexible aspect of the Tongan concept of "chieftanship" in the nineteenth century, and also the aspect of consensus needed for leadership.

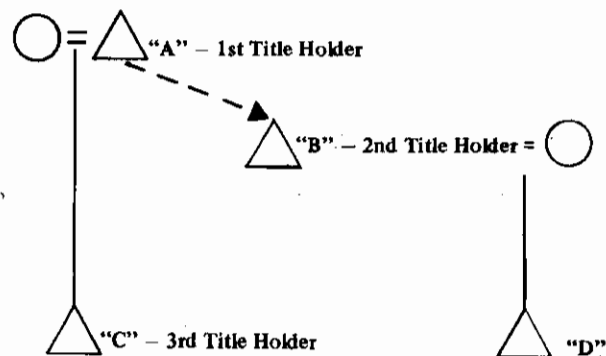
The Constitution

The Tongan Constitution of 1875 was promulgated by King George Tupou I with the aid of European advice. What the Constitution did was to remove the inherent flexibility concerning the inheritance of titles. Where before the Constitution an individual received a title because of the consensus of the people, after 1875 a person received a title because of the law.^{10,11}

In pre-1875 Tonga, if an adopted son of a titled individual succeeded to the title of his adopting parent, the new titled individual would not transmit that title to his own son. The new titled son was, in essence, only "holding" the title until a proper heir to the title came of age (see Figure 1).

FIGURE 1

ADOPTION TRANSACTION



SEQUENCE OF EVENTS

Title Holder "A" adopts individual "B"
 Title Holder "A" dies - individual "B" selected as new Title Holder in lieu of "C"
 Title Holder "B" dies - individual "C" selected as new Title Holder - Title has "reverted" to original descendants.

AFTER the Constitution of 1875, when Title Holder "B" died, the title did not go to individual "C" but went because of the law) to individual "D."

Although the title would revert to someone in the original line of descent in the *ha'a*, the rank of the adopted son was his own because of the adoption. In pre-1875 Tonga the adopted son would not lose his rank yet his children would not be eligible for the title.

With the Constitution of 1875 strict rules of primogeniture were introduced *in lieu* of the consensus aspect. The King of Tonga was quite explicit about this in a speech he made to the Tongan Parliament in 1875:

... the estate shall go with the title, and the succession shall be from the father to the son for ever. The Law of Succession is stated in the Constitution, and such succession shall be by blood relationship only: from to-day NO ADOPTED CHILDREN SHALL SUCCEED TO THE ESTATE OR TITLE OR TO ANYTHING; only the children of blood relations and by marriage [stress added] (in Hunter 1963:2).

At the time of the promulgation of the Constitution in 1875 there were a few title holders who were in fact adopted sons; with the Constitution in effect these adopted title holder sons PASSED THE TITLES ON TO THEIR OWN BIOLOGICAL SONS when they eventually died or were unable to perform the duties associated with the title. With the Constitution of 1875, the concept of reverting a title to the original line of descent was no longer valid, and adopted sons could no longer be considered potential title holders at all.

Because titles could not revert with the Constitution in effect, when the adopted title holder sons died and when the titles were passed on to their own biological sons, several court cases developed. The original descendants (or potential recipients of a title) claimed the title because of custom, but the law of the Constitution stated otherwise. Tongans eventually came to realize the inequities of the 1875 Constitution, and eventually the Constitution was amended in 1953. Tongans realized that:

According to chiefly Tongan customs, when a chief adopted a child to his family, the adopted child was given the title of that family - a mark of recognition equivalent to the modern registration of adoption. It was also a sign of the acceptance of the adoption by the family. THE ADOPTED PERSON HELD THE TITLE UNTIL HIS DEMISE WHEN THE TITLE REVERTED TO THOSE ENTITLED TO IT BY BLOOD RELATIONSHIP [stress added] (Hammett 1961 in Hunter 1963:179).

Tongans realized that:

... the Law of Succession contained in the Constitution was contrary to, but nevertheless must take precedence over the chiefly Tongan custom relating to adopted sons who had been appointed to hold a chiefly title and the rights of their descendants to inherit their titles (*ibid.*, p. 180).

As a result of the court cases and the fact that the law of the land did go against the custom of the land, in 1953 the Constitution was amended "to ensure that the law of succession to the titles of nobles should take

cognisance of the old and well-known chiefly custom concerning adopted children" (*ibid.*). The Constitutional Amendment, Act No. 15 of 1953, added the following paragraph to Section 107 of the Constitution:

Whereas by Tongan Custom PROVISION HAS ALWAYS BEEN MADE THAN AN ADOPTED CHILD MIGHT SUCCEED TO THE ESTATES AND TITLES OF HIS ADOPTIVE FATHER now therefore it is decreed that upon the death of the holder of an estate or title who has inherited such estate or title by virtue of his blood descent from such adopted child the estate and title SHALL REVERT TO THE DESCENDANT BY BLOOD OF THE ORIGINAL HOLDER OF THE ESTATE AND TITLE IN ACCORDANCE WITH THE PROVISIONS OF THIS CLAUSE . . . [stress added] (Wylie 1967:1:36).

Thus, in the twentieth century, Tongans realized the efficacy of adoption transactions in aboriginal Tonga and have incorporated what was once custom into the laws of the Kingdom for matters concerning high ranking individuals.

Conclusions

The major purpose of this brief paper has been to present descriptive and interpretive data on aboriginal adoption transactions in Tonga. Although numerous activities involved transactions between kin (*tauhi*, *ngaahi*, *fakahingoa*, *pusiaki*, and *ohi*), the data and interpretation show that there was only one concept in aboriginal Tonga which should be given the gloss "adoption," and that was an *ohi* transaction, a transaction involving permanent change in the rank and residence of the adopted individual. *Ohi* transactions took place between high ranking individuals for political purposes.

The second purpose of this paper has been to point out that aboriginal Tonga is certainly not twentieth century Tonga. Scarr (1967:4) has written of a "rigidity" in Tongan social structure, springing "in part, from primogeniture," yet it was only with the Constitution of 1875 that strict rules of primogeniture were introduced into Tonga. King George was most emphatic in his 1875 statement to Parliament concerning the strict succession "from father to son for ever" and the new emphasis that "no adopted children" could ever succeed to anything. This is why the Beagleholes were in error in their 1941 work when they dealt with *ohi* transactions and stated that the child so adopted "will also expect to inherit property, status and rank, if any, from its adopted parents" (1941:70). It would have been true before the constitution, but in the twentieth century it was simply against the law.

Although the Tongan Constitution was amended in 1953 for cases relating to high ranking Tongans and *ohi* transactions, for the bulk of the populace the situation remains the same: no adopted child can inherit from

his (or her) adopted parents (although the child could certainly inherit from his own biological parents). As recently as 1961 the Chief Justice of Tonga stated:

no person who is an adopted child and has not been born in wedlock to the person from whom he claims to inherit, is now entitled to inherit under the law of succession in any event. (Hammet *in* Hunter 1963:182).

The Chief Justice also pointed out in the same context:

From the date the Constitution was granted in 1875 until the present time no adopted child has been entitled to inherit under the law of succession and no provision has been made whereby an adopted child may succeed in the future. (*ibid.*).

The 1953 Amendment to the Tongan Constitution changed the Constitution for the high ranking Tongans, but for the bulk of the populace in the twentieth century inheritance rules are guided not by custom but by law. For the Tongan farmer, inheritance of land (in a land-scarce archipelago) is extremely important; and as A. Maude's most recent work on land in Tonga states it, "only legitimate sons may inherit" land, and "these rules of inheritance do not necessarily follow Tongan custom exactly" (A. Maude 1971:113).

It is clear that twentieth century Tonga is not aboriginal Tonga. The "Europeanization" of Tonga removed much of the inherent consensus and flexibility from Tongan society, and researchers and Tongans alike must be made aware of this.

NOTES

1. Funding for the research partially presented in this paper was provided, in part, by an NDEA (Title IV) Fellowship and an NIH Traineeship (PHS Grant 5 T01 GM01382-05). Field work was conducted in Tonga from July to October of 1970 and from August to October of 1971. In the intervening months research was conducted in the major libraries of Fiji, New Zealand, and Australia, with most of the research being done in the Mitchell Library, Sydney, Australia. Assistance and information provided by individuals in Tonga, especially those connected with the *Komiti Tafakafonua 'o Tonga*, "Tongan Traditions Committee", is greatly appreciated. Space limitations obviously precludes the listing of all individuals from whom assistance was gratefully received, but see the completed dissertation (1972:v-x). An earlier version of this paper was discussed at a symposium on "Adoption and Fosterage in Oceania" at the First Annual Meeting of the Association for Social Anthropology in Oceania, March 29-April 1, 1972. Numerous people have commented on my Tongan work, none of whom, of course, are responsible for what I present.
2. C. Maxwell Churchward has defined *tauhi* as "to tend, look after, take care of" (C. M. Churchward 1959:463). One of the earliest definitions of the term was recorded by the Wesleyan missionary S. Rabone who defined *tauhi* as "a nurse; a

- protector" or "to protect: to provide for" (S. Rabone 1845:182; *vide* S. Baker 1897:175).
3. Baker also has *gaohi* erroneously defined as "adopt" (1897:2), along with *ohi* properly defined as "adopt" (*ibid.*, p. 2 and p. 15). In his 1845 work, Rabone does not have the term *gaohi* nor any variation on it, but he does have *ohi* as "to adopt" (1845:19). For *fakahingoa* see Baker (1897:50), Churchward (1959:44) and Rabone (1845:59).
 4. Churchward has defined *pusiaki* as "to rear (a child or a young animal) away from its mother" and states that one should compare it to *ohi* (1959:424). In the orthography of the nineteenth century, Rabone has *bujiaki* defined as "a pet; anything petted" or "to pet; to feed by hand" (1845:34). Baker's work, based on Rabone, also has the same but adds "foster" as "*ke bujiaki*" (1897:28). Churchward also utilizes *pusiaki* in the context of "foster-child" and "foster-parents" (1959:656).
 5. The concept *'eiki* was one of "noble birth" in aboriginal Tonga and the term *'eiki* is not immediately synonymous with the term "chief." A title was given to an individual because of some special aspect of the individual and there were titled *'eiki* as well as titled non-*'eiki*; to finish out the simple 2x2 analysis, there were also non-titled *'eiki* and non-titled non-*'eiki* individuals (the last category being the bulk of the Tongan populace – in the past and in the twentieth century). For further particulars see Urbanowicz (1973 and 1973/74).
 6. The only way a researcher can attempt a reconstruction of aboriginal (or early contacted) culture is for that researcher to examine the earliest extant documentation pertaining to that culture and then make comparisons both internally and externally, comparing documented statements to documented statements and then comparing the "old" information with "new" information gathered by contemporary field work (see Urbanowicz [1972] for a detailed explication of the methodology of the documentary research). The manuscript accounts of the missionaries can be suggestive, without providing any real information, as when the Wesleyan missionary James Watkin (in the archipelago from 1831 to 1837) wrote "this people much in the habit of adopting children" (*Journal* entry of April 9, 1834). However, the missionary statements are useful when they can be compared internally and with external, and known, reputable information. Thomas' following statements can be checked: he wrote of a Tongan girl in 1834 that she was "the reputed daughter of Ulakai" (*Journal* entry of March 9, 1834) when she died in 1841 he wrote that "she was the adopted daughter of the late chief Ulakai and the real daughter of the Tui Tonga" (*Journal* entry of July 13, 1841). In Australia, I examined the genealogical information in the E.E.V. Collocott Manuscript collection pertaining to Tonga and compared those genealogies to information recorded in Tonga – particularly the *Koe Tohi Hohoko Eni 'A Kingi Siaoisi Tupou II* held by the Tongan Traditions Committee. The name of the girl proved to be Fatafahi and she was a child of the *Tu'i Tonga* Laufilitonga by his third wife Siulolovao.
 7. Fatu, whose full name was Fatukimotulalo, was an important and powerful non-titled *'eiki*. He was the son of Mulikiha'amea and that individual's fifth wife, Ikatonga. Fatu is well reported in the literature: one European, non-missionary, who was living in Tonga wrote how he was "patronized by a chief called Fatou, who has adopted me as his son, – married me to his daughter, and given me a house to live in and land to cultivate" (J. Read in Orlebar 1833:69); another European observer wrote that Read had become the "adopted son of the most powerful Pagan chief in the island" (Orlebar 1833:48). Dumont D'Urville remarked that "Palou or Fatou and Tahofa [also called Fae] were without doubt the two most powerful chiefs of Tonga, although inferior to many others by birth" (MS. pp. 7-8). Fatu died on January 10, 1842 (J. Thomas written on the incorporation of Europeans (both male and female) into Tongan society, such as Read, or Vason, who wrote how he was regarded by Mulikiha'amea

- "with parental affection" (1810:111), or Mariner, who reported that Finau Ulukalala was considered to be his own "father and protector" (1817:I: p.90 and p. 310). A later paper is planned.
8. Adoptions and arranged marriages for political reasons had always existed in the indigenous system and with the arrival of the Wesleyan missionaries this did not change. The missionaries knew about the arranged marriages but they could not do anything to stop them (or would not do anything to stop them) for they were too much a part of Tongan life. One missionary, on a visit in 1850 (he had also been in the archipelago from 1822-1823) wrote that such "state unions" were made "merely to promote caste" and that this was a "thing which ought to be destroyed" (W. Lawry *Journal* entry of June 15, 1850), but it was not.
 9. Additional research might reveal further forms of aboriginal adoption transactions, Collocott refers to Tungimana'ia as being "fakatakatuu" to a particular *Tu'i Ha'ateiho* (Collocott n.d. p. 258) or *fakatakaua* which is "like or pertaining to a constant companion" (Churchward 1959:102). The record suggests that this may have been a "more intense" form of *ohi* since a son of an adopted son succeeded to a title – that is, the title did not revert as in an *ohi* transaction (compare Gifford [1929:137]). Companionship, group membership, or group enlargement, are all subject to further research and debate in the context of adoption and the *ha'a*.
 10. Unfortunately, this important distinction of pre-1875 Tonga and post-1875 is often overlooked in the literature (see, for example, Kaeppler 1971). For specific statements on changes in rank and status acquisition procedures due to the Constitution of 1875 see Urbanowicz (1973/74).
 11. The Constitution also resulted in other problems concerning titles: prior to the Constitution no man could hold more than one title, since the title holder was responsible to (and for) a particular group of people; now, as a result of the Constitution, there are men holding two titles. Most notable of these is the Honorable *Kalaniuvahu-Fotofili*. (The double title of *Ulukalala-Ata* is currently vacant). What the holding of double titles means is that a further gulf has been injected into the relationship between titled and non-titled individuals. A person with two titles has to divide his time (and obligations) between two different groups of people. This would not have been so prior to 1875.

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