Institutional rigidities and economic performance in Fiji

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Introduction

It has been argued that the increased commitment towards structural adjustment policies in Fiji following the two military coups of 1987 were an important step in placing Fiji in a position to cope with the deepening globalisation of the world economy. However, the performance of the Fiji economy over the last decade has been poor (Sepehri and Akram-Lodhi, this volume). Some would argue that this poor economic performance is because Fiji has not gone far enough in pursuing its structural adjustment policies, in large part because of political uncertainty. Now, a new constitution is in place (Ghai, this volume). Many political and business leaders believe that the new constitution will resolve uncertainty and in so doing provide a climate conducive to investment and growth, especially if the pace of structural adjustment in Fiji picks up.

However, it has been pointed out by Dunning (1997) that there are no universal prescriptions available to a country responding to the forces of globalisation. Each country has different institutional and economic structures, which will affect how it responds to global economic forces. As one of those institutions, the role of the state is vital in determining the economic performance of countries, both in its own direct interventions and in facilitating the development of the complementary economic, political, social and cultural institutions which can supplement performance. Fiji is no exception in this respect, and this helps explain why the performance of the state in Fiji has been in the spotlight.

In this chapter it is argued that the state in Fiji has paid insufficient attention to the institutions which provide the framework within which economic growth takes place. As such, the state has not addressed institutional rigidities that constrain growth. The chapter makes this argument by focusing on one particular institutional constraint to growth: property rights in land in Fiji. In the next section, the relationship between institutions and economic performance is discussed. The character of property rights in land in Fiji is critically examined and ways of transcending institutional rigidities in the assignation of property rights in land are evaluated. The final section provides some tentative conclusions.

Institutions and economic performance

The 'new institutional economics'

Institutions in a society determine the way in which social, cultural, political and economic relations are conducted. They thus constitute the framework by which relations are structured. In structuring relations, institutions shape the various rules and procedures applied in a given set of circumstances. For example, when conducting economic activities, institutions can affect incentives and thus outcomes. Therefore, institutions and what they do are, as Adams (1993) notes, important when seeking to understand and affect the changes taking place in an economy or in a society. As a consequence, institutions and what they do need to be a central part of the policy process. This is increasingly being acknowledged by policy makers, who are coming to accept that within the economy growth is affected by the institutional framework and social practices which structure the process of development (Maki 1993; Hodgson 1989).

Development economics pioneers such as Hirschman (1958), Leibenstein (1957), Myint (1965), Fei and Ranis (1964), Myrdal (1957) and Nurkse (1953) all gave attention to institutions when explaining economic development. However, as Adams (1993) points out, what is now called the 'new institutional economics' is different from both mainstream and development economics. It clearly differs from the former, with its challenge to the neoclassical theory of individualistic

optimisation in competitive markets, a theory that does not accept the pervasive nature of institutional constraints. As for the latter, Adams writes that

despite much agreement and interaction, an important division remained between institutional economists and development economists: the former stressed the importance of institutions and the dysfunctions of the market capitalist system in all settings, while the latter generally held to the tenet that institutions mattered and markets are meaningfully flaw-ridden only in relatively underdeveloped areas (1993:250).

A focal figure in the emergence of the new institutional economics is that of Nobel Laureate Douglass North. As Libecap notes,

Douglass North has been one of the foremost economists in asserting that much more attention must be directed to the institutional structure of a society in general, and to its property rights arrangements in particular, for explaining variations in economic performance across societies and across time (1992:227).

North's contribution can be traced from as early as 1955, when he first sought to explain economic growth by reference to the specific institutional structures present in a developed capitalist state (North 1955:243). Subsequently, North sought to explain the role of institutions in the overall performance of economies by differentiating between efficient and inefficient institutions and then attempting to demonstrate how these affected variables such as rate of growth of gross domestic product or the investment rate (North and Thomas 1973:127).

Within the new institutional economics that North has helped to foster, issues such as property rights, the role of the state, the character of the bureaucratic structure and the control of technology have all occupied analytical prominence. At the same time however the new institutional economics has not been unaware of the role of social power in affecting the performance of an economy. Institutions reflect social power. Thus, the basis by which power is created, accessed and used has been seen by new institutional economists as being an important factor in determining the kind of institutional structures that emerge in a society and which thus have an impact upon the economy.

Property rights as an economic institution

As North (1990:11) has written, neoclassical theory is based on the fundamental assumption of scarcity and hence competition. Its harmonious implications come from its assumptions about a frictionless exchange process in which property rights are perfectly and costlessly specified and information is likewise costless to acquire. Standard neoclassical theory thus assumes that a set of private property rights already exists and that such a set of rights governs the control and use of all resources. Moreover, neoclassical theory assumes that individuals engage in economic activities when the cost of information concerning the exchange, enforcement and policing costs of contractual activities are zero. It is under this set of assumptions that individuals become free to pursue the utility-maximising activities that ensure an efficient allocation of resources.

However, this set of assumptions is exceedingly stringent. For example, in the process of exchange there is usually an unequal distribution and accumulation of information, which may lead to asymmetrical information (Riker and Weimer 1994). Under conditions of asymmetrical information, exchange generates an inefficient outcome. Similarly, Tietenberg (1992) and Randall (1987) both argue that the application of neoclassical theory demands that property rights are universal, exclusive, transferable and enforceable. This too is quite stringent: costs may be involved in the maintenance of the private property rights structure, and such costs may generate an inefficient outcome. Clearly, the neoclassical framework, and particularly its assumptions concerning the structure and maintenance of property rights, may not be witnessed in the real world.

Cost considerations underlie the inclusion of property rights into economic analysis. Coase (1960) was instrumental in facilitating such an inclusion, arguing that market distortions and hence costs arising from externalities could be eliminated by a clear definition of property rights. A clear definition of property rights would result in resources being allocated to those agents that placed the highest value upon such resources, and this would facilitate economic efficiency. However, interventions in the economics of property rights such as those of Cheung (1970), Demsetz (1967), Alchian (1974), Wallis and North (1986), Barzel (1989) and Pejovich (1990) have all noted that any system of property rights entails an ancillary set of costs pertaining to enforcement. These costs need to be integrated into any economic

analysis. Clearly, private property is only secure and its owner can only reap the benefits of ownership if others are prevented from the unauthorised use, appropriation or expropriation of the private property. In the words of Adam Smith (1937:862), 'commerce and manufacture can seldom flourish long in any state which does not enjoy a regular administrative justice in which people do not feel themselves secure in possession of their property, and in which faith of contracts is not supported by the law'.

Governance and property rights

Thus, for property rights to be secure, contracts must be enforced. As a consequence, there emerges a pivotal role for the state: maintaining and enforcing the property rights of individuals. Moreover, as Binswanger and Rosenzweig (1984:139) point out, 'as contracts and property rights enforceability becomes institutionalised, free trade and capitalist development is promoted'. This is because where property rights are undefined, insecure or are not enforced by the state, people have less incentive to invest or undertake innovative, entrepreneurial initiatives (Scully 1988; Scully and Slottje 1991; Torstensson 1994). However, in many developing countries there is a lack of security of property rights. There thus emerges a link between property rights and economic performance: the inability of governments to ensure the enforceability of property rights weakens investment, weakens entrepreneurial activity, and acts as an impediment to economic efficiency and growth.

Riker and Weimer (1994) indicate the four characteristics of property rights that the state must enforce: allocation, trespass, alienation and credibility. The capacity of the state to enforce these four characteristics is a question of governance. The World Bank has defined governance as 'the state's management of economic and social resources' (World Bank 1994). The governance capacities of the state may be higher in a country which is politically stable (Riker and Weimer 1994), where democratic principles are highly valued in civil society, and where the security of property has become socially and morally institutionalised. Conversely, the governance capacities of the state may be lower where the rule of law is weaker. In part, this is because the potential for corrupt rent seeking by individuals within the state structure is greater where the rule of law is weaker (Tullock 1980). Such 'directly unproductive profit-seeking' (Bhagwati and

Srinivasan 1980) activity generates income which is not based upon making a contribution to productivity improvements, and thus leads to a loss in the welfare of a society.

Thus, governance affects economic performance, in part because the effectiveness of governance determines the extent to which property rights are enforced and this in turn affects investment. Property rights are thus an extremely important economic institution. Given this importance, in those developing countries that have significant agricultural sectors—countries such as Fiji—it is to be expected that property rights in land are an economic institution that has implications for economic performance. If property rights in land are, to paraphrase North (1990), institutionally efficient, growth will be enhanced. If property rights in land are institutionally inefficient, growth will be reduced. In order to assess the efficiency of property rights in land, it is necessary to examine land tenure institutions, as these are the basis by which property rights are assigned, and as such will have an impact on productivity.

In the following section, the theoretical insights of the new institutional economics are applied to a case study of property rights in land in Fiji. This is done in order to assess the implications of economic institutions on economic performance in general, and in particular to assess whether institutional rigidities in property rights in land have had an impact on economic performance in Fiji.

Property rights in land in Fiji

Agriculture in Fiji¹

For most of the post-independence period, agriculture has provided around a fifth of Fiji's gross domestic product. Agriculture is also a major employer, with more than 75 per cent of all households working on a full or part-time basis in crop production, livestock, forestry and fisheries (World Bank 1995a). Sugarcane farming and processing dominates commercial agricultural activity, and has done since its introduction in the 1880s. Sugarcane farming accounted for more than 40 per cent of the total agricultural sector in 1995. At the same time, sugarcane processing accounted for almost 30 per cent of the total manufacturing sector in 1995 (Fiji Bureau of Statistics (various issues): Table 3.3). As a consequence, the sugar industry was worth more than

12 per cent of GDP in 1995. Moreover, the sugar industry remains the largest single source of employment in Fiji, providing direct employment for more than 25 per cent of the economically active population. Finally, sugar provided some 40 per cent of exports by value in 1992.

In 1993 sugarcane farming in Fiji was done on 23,454 registered farms. According to the World Bank (1995a), the average size of a sugarcane farm was 4.2 hectares. The average area harvested was 3.11 hectares, the average cane yield was 48 tonnes per hectare, and the average gross revenue received was F\$8,314. Most sugarcane farms are thus small production units. Operating for most of the year with household labour, 61 per cent of sugarcane farms produce on average less than 150 tonnes of cane per year. Moreover, 24 per cent of sugarcane farms have operational holdings of one hectare or less and produce on average 50 tonnes or less of cane a year.

Sugarcane farming is subject to long production cycles, inflexible resource allocation and the uncertainty of the weather. In Fiji, production uses self-provided seed cane, animal draught power and limited quantities of agro-chemical fertilisers. In addition to family labour, hired labour is used during the harvesting season. Cane harvesting is performed manually under a complex gang system that involves farmers working alongside some 13,500 seasonal harvesters, many of whom are landless migrants. Cane harvesters receive an average rate of F\$7.50 for every tonne of cane cut. This translates into an average daily wage paid of approximately F\$8.50, almost 40 per cent below the mean average for all industries in Fiji. However, in addition to wage costs the farmer hiring the cane harvesters often bears the cost of providing housing and meals for the temporary labour.

Access to land

Given the importance of agriculture in the Fiji economy in general, and the importance of sugarcane production in particular, the institutional structures that govern the access of farmers to land are of critical importance. This is because arable land, in Fiji as elsewhere, is scarce. According to a survey by Twyford and Wright (1965) the total land area of Fiji is about 7,000 square miles. Table 5.1 indicates the composition of land ownership in Fiji, as indicated by Nayacakalou (1971). Land can be owned by indigenous Fijian land-owning groups,

Table 5.1 Categories of land ownership in Fiji

	Per cent of total area
Native land	83
Crown land	10
Freehold	7
Total	100

Source: Nayacakalou, R., 1971. 'Fiji: manipulating the system', in R. Crocombe (ed.), *Land Tenure in the Pacific*, Oxford University Press, Melbourne.

called *mataqali*, which is called 'native land'; owned by the state, which is called 'crown land'; or can be privately owned, which is called 'freehold' land. Whilst the figures in Table 5.1 underestimate the distribution of native land, in that some crown land has reverted to native land (Ward 1995), they are broadly accurate. As is demonstrated in Table 5.1, 83 per cent of land in Fiji is classified as native land. Some 10 per cent of land in Fiji is owned by the state. This land is subdivided into two categories: crown land schedule A; and crown land schedule B. Schedule A is native land that reverted to the state after the demise of the *mataqali*. Schedule B is state land over which there are no *mataqali* claims. Finally, 7 per cent of the land is classified as freehold. The majority of this land was acquired during the late 1800s. While a small percentage of the overall land area, it should be noted that this land covers a large proportion of the arable area, and often includes better quality land.

Table 5.2 classifies land according to its suitability for agricultural purposes for the years 1965 and 1978. Significant changes took place in the thirteen-year period. In 1965 Twyford and Wright found that 40 per cent of Fiji's land area was unsuitable for agriculture, as it consisted of undulating to steep mountains covered with forests. In 1978, using slightly different but broadly comparable definitions, the Ministry of Agriculture and Fisheries found that only 6 per cent of the land area was wholly unsuitable for agriculture. Twyford and Wright found that only 20 per cent of the land area could be used for agriculture without any improvements being made. In 1978 this figure had dropped to only 16 per cent. In 1965 some 10 per cent of the land area could have become available for agriculture if appropriate improvements had been made. In 1978 this category had dramatically increased, to constitute 43 per cent of the land area. Finally, whereas in

Table 5.2 Land use classification in per cent, 1965 and 1978

Land classification	1965	1978
Suitable for agriculture ('First Class')	20	16
Suitable for agriculture only after advanced improvement ('Second Class')	10	43
Suitable for agriculture only after advanced drainage and soil conservation work ('Third Class')	30	35
Unsuitable for agriculture ('Fourth Class')	40	6
Total	100	100

Source: Fiji Ministry of Agriculture and Fisheries, 1978. *Census of Agriculture*, Ministry of Agriculture and Fisheries, Suva.

1965 some 30 per cent of the land area needed drainage and soil conservation work in order to make it available for agricultural purposes, by 1978 this figure had increased to 35 per cent.

Native land dominates the distribution of land in Fiji. It also dominates the distribution of arable land. This gives rise to a complex ethnic dimension in access to scarce arable land in Fiji. Currently, some 75 per cent of sugarcane farmers are Indo-Fijian. They are responsible for about 88 per cent of sugarcane production. By way of contrast, about 25 per cent of sugarcane farmers are indigenous Fijian. They are responsible for about 12 per cent of total sugarcane production. Clearly, with the majority of agricultural land controlled by one community, the indigenous Fijian community, and with the majority of sugarcane farmers coming from a second community, the Indo-Fijian community, ethnicity is a major factor in agricultural production in Fiji.

Moreover, ethnicity may also be a major factor in agricultural productivity in Fiji. The figures just quoted demonstrate that indigenous Fijian sugarcane farmers are comparatively less productive than Indo-Fijian sugarcane farmers. The cause of comparatively poor performance amongst indigenous Fijians is often put down to a lack of experience in sugarcane farming within the indigenous Fijian community, 'Fijian tradition', and institutional constraints of the type which will be discussed later in the chapter. Efforts have been made however to try and increase both the participation and the productivity of indigenous Fijians in sugarcane production in Fiji. One such effort has been the Seaqaqa cane project on Vanua Levu.

Table 5.3 Sugarcane production in the Labasa mill area, 1986–95

Years	Production area (hectares)	Tonnes per hectare	Total production (tonnes)
1986	19,757.6	51.5	1,017,372
1987	19,369.6	45.3	877,652
1988	19,353.7	53.5	1,034,787
1989	20,083.7	49.3	989,847
1990	19,990.6	58.5	1,168,824
1991	21,560.5	47.7	1,029,223
1992	22,624.0	51.3	1,161,245
1993	23,043.9	48.8	1,124,357
1994	23,346.7	55.6	1,298,285
1995	236,861.1	54.1	1,216,291

Source: Fiji Sugar Corporation, 1996. *Labasa Mill Database*, Fiji Sugar Corporation, Labasa.

A World Bank assessment of the Seaqaqa project argued that efforts to boost indigenous Fijian participation and productivity in sugarcane farming could be successful if such efforts both boosted the output of cane and witnessed improved performance by those indigenous Fijian farmers who had come from outside the district and were thus new to sugarcane farming (World Bank 1995a). Table 5.3 gives details of sugarcane production in the Labasa mill area, encompassing the Seaqaqa project area, between 1986 and 1995. Table 5.3 demonstrates the increase in productivity, from 51.5 tonnes per hectare in 1986 to 54.1 tonnes per hectare in 1995, an arithmetic trend rate of growth of 1.37 per cent per annum over the period.

However, it can be debated whether there is a relationship between improved productivity in the Seaqaqa project and increased indigenous Fijian participation. The project sought to maintain a minimum 50 per cent farmer participation rate from the indigenous Fijian community. Table 5.4 details the ethnic origin of farmers in the Seaqaqa project between 1981 and 1993. Table 5.4 illustrates that by 1993 indigenous Fijians comprised only 45.7 per cent of all farmers in the project, a decline of 11.4 per cent over a 13 year period.

Clearly, indigenous Fijian farm productivity remains at the very least a contentious issue. Notwithstanding this issue though there is a widespread movement in Fiji amongst the indigenous Fijian community which seeks to increase the participation of indigenous

Table 5.4 Percentage of Indo-Fijian and indigenous Fijian farmers in the Seaqaqa project, 1981–93

Years	Indigenous Fijians (%)	Indo-Fijians (%)	Others (%)
1981	56.1	42.3	1.6
1982	55.8	42.7	1.5
1983	55.0	43.4	1.6
1984	53.5	44.9	1.6
1985	51.7	46.7	1.6
1986	50.7	47.7	1.6
1987	50.4	48.0	1.6
1988	49.1	49.5	1.4
1989	47.7	50.8	1.5
1990	47.4	51.3	1.3
1991	47.1	51.3	1.6
1992	46.9	51.6	1.5
1993	45.7	53.0	1.3

Source: Fiji Sugar Corporation, 1996. *Labasa Mill Database*, Fiji Sugar Corporation, Labasa.

Fijians in farming, and particularly in sugarcane production. This would, as a first step, require that some land that is currently worked by Indo-Fijians revert to indigenous Fijian farmers. In order to understand how this might occur, and the possible consequences of such a development, it is necessary to examine land tenure institutions in Fiji.

Land tenure institutions

Access to native land is regulated by the Native Lands Trust Board (NLTB), which was created by the colonial government in 1940. The creation of the NLTB as the primary agricultural institution dealing with land tenure can be traced back to the needs of the sugar industry during the colonial period. According to Moynagh (1981), the Colonial Sugar Refinery pushed for the formation of smallhold farms. This required the division of native land into small units, under some kind of tenancy arrangement. However, dealing with individual and often undefined indigenous Fijian land-owning units was cumbersome. The establishment of the NLTB provided tenants with a single institutional body with which to deal. As will be seen, it did not remove the element of insecurity from tenurial relations in rural Fiji.

Table 5.5 shows the distribution of native land in Fiji. Section 15 of the Native Lands Trust Act (NLTA) provides that land may be 'reserved' for the exclusive use of indigenous Fijians. Such land may not be leased out to non-indigenous Fijians unless it is not being used. Unreserved land may be used by indigenous Fijians or may be leased out. As demonstrated in Table 5.5, some 63 per cent of native land is unreserved, while some 37 per cent of native land is reserved. Of that land which is unreserved, just under 41 per cent is leased out. Of that land which is reserved, fewer than 15 per cent is leased out.

Thus, the main institutional duty carried out by the NLTB, as specified by Section 8 of the NLTA, is the granting of leases to work native land and to consider the renewal or non-renewal of such leases. Section 9 of the NLTA gives a very specific condition that governs land leasing (Government of Fiji 1985:6):

No native land shall be dealt with by way of lease or licence under the provisions of this act unless the Board is satisfied that the land proposed to be made the subject of such lease or licence is not being beneficially occupied by the Fijian owners, and is not likely during the currency of such lease or licence to be required by the Fijian owners for their use, maintenance or support.

Section 9 of the Act thus provides the NLTB with the power to determine the granting of leases on land that is not being used by indigenous Fijians. Indeed, any rental agreement that does not have the consent of the NLTB is null and void. Granted, informal

Table 5.5 Classification of native land in Fiji

	Area (km ²)	Per cent of total native land
Unreserved	9528.15	63.37
Reserved	5508.47	36.63
Total	16036.62	100.00
of which:		Per cent of unreserved/reserved land
Unreserved native land leased	3869.31	40.61
Reserved native land leased	816.43	14.82

Source: Ward, M., 1995. 'Land, law and custom: diverging realities in Fiji', in R.G. Ward and E. Kingdon (eds), *Land, Custom and Practice in the South Pacific*, Cambridge University Press, Cambridge:199.

arrangements between local *mataqalis* and tenants do occur. However, there is no legal basis for these arrangements. Thus, the NLTB dominates the supply of rentable agricultural land.

In supplying land for rent, the NLTB must abide by provisions that regulate the leasing of agricultural land in Fiji. These regulations provide a framework within which the NLTB operates. As such, they could be considered a second agricultural institution dealing with land tenure. In 1966 comprehensive legislation called the Agricultural Landlord and Tenants Ordinance (ALTO) was put in place to formalise the leasing of agricultural land. The ALTO provided that leases be a minimum of ten-years and offer the possibility of two ten year renewals. The ALTO thus effectively provided maximum leases of thirty years, a degree of tenurial security that had not previously existed in rural Fiji. Nonetheless, in that there was not an automatic renewal of a lease after the initial ten-year period, an element of insecurity remained. This insecurity will no doubt have had an effect on economic incentives and, thus, long-term growth.

In 1976, the ALTO was amended by Parliament, in the form of the Agricultural Landlord and Tenants Act (ALTA). Like the ALTO before it, the ALTA was intended to harmonise landlord-tenant relationships so that agricultural productivity could be increased. However, unlike earlier provisions both under the NLTA and the ALTO, the ALTA offered better protection for tenants seeking to exercise their right to use the land. This was particularly the case for tenants on freehold land. The ALTA thus provides the legal framework under which land leases are granted on all agricultural land in Fiji. The ALTA is therefore, after the NLTB, the second key institutional structure dealing with property rights and land tenure in rural Fiji.

Sections 4 through 15 of the ALTA deal with issues around security of tenure. Under these sections, the ALTA provides a minimum thirty-year period for all newly agreed leases. Moreover, for leases agreed under the ALTO regulations, a twenty-year renewal is stipulated. The tenant is required to pay a rent to the NLTB, which is set at 6 per cent of the unimproved capital value of the land. The unimproved capital value of the land is in theory determined every five years. Rents as a proportion of crop value vary tremendously. For example, conflicting data from the World Bank (1995a) and local research (Prasad 1995) suggests that rents for sugarcane land may vary from a low of F\$50 per hectare to a high of F\$350 per hectare.

The NLTB distributes the rents it receives to the indigenous land-owning unit, through its chiefs. Table 5.6 presents the distribution of rents collected by the NLTB. The figures provided in Table 5.6 differ from those used by many authors, including Nayacakalou (1971), Eaton (1988), Overton (1987), Rutz (1987) and Spate (1959). This is because, as Ward (1995) points out, there has been some scholarly confusion regarding the distribution of rents. The figures in Table 5.6 follow Kamikamica and Davey (1988) and the NLTA itself, which is quite clear.

After deduction of any sums in accordance with section 14 of the Act, the balance of any monies received by the Board by way of rents and premiums in respect of native land shall be distributed by the Board as follows: (a) to the proprietary unit, seventy per cent; (b) to the *turaga ni mataqali*, fifteen per cent; (c) to the *turaga ni yavusa*, ten per cent; (d) to the *turaga I taukei*, five per cent (NLTB Act, Section 11 (1), Cap134:28).

As is seen in Table 5.6, 25 per cent of the total rent goes to the NLTB. This is used to cover its own administrative costs. It is a matter of some debate as to whether this allocation represents value for money. The NLTB has been running at a loss for some years, requiring additional transfers from the state, and has not produced an audited financial statement since 1989. Its management of resources thus lacks transparency. This may have created opportunities for rent seeking behaviour on the part of its bureaucrats. Moreover, the introduction of positive discrimination into the civil service created a 'culture of mediocrity' which may have also affected the NLTB and which may have also contributed to the pursuit of directly unproductive profit-seeking activities on the part of bureaucrats.

Table 5.6 Distribution of rents collected by the NLTB

Recipient	Per cent of rent
Native Land Trust Board	25
Head of <i>vanua</i> (<i>Turaga ni Taukei</i>)	3.75
Head of <i>yavusa</i> (<i>Turaga ni Qali</i>)	7.5
Head of <i>mataqali</i> (<i>Turaga ni Mataqali</i>)	11.25
Members of <i>mataqali</i>	52.5
Total	100

Source: Kamikamica, J. and Davey, T., 1988. 'Trust on trial: the development of the customary land trust concept in Fiji', in Y. Ghai (ed.), *Land, Government and Politics in the Pacific Island States*, Institute of Pacific Studies, Suva.

Of the remaining 75 per cent of the rent, three chiefs, that is the head of the *vanua*, the *yavusa* and the *mataqali*, receive a total of 22.5 per cent. The remainder goes to the members of the *mataqali*. It can be questioned whether the distribution of the 75 per cent of the rent that does not go to the NLTB is equitable, in that three members of one proprietary unit receive 22.5 per cent of the rent and all other members of the proprietary unit together receive 52.5 per cent. Moreover, just as the role of the NLTB may distort the operation of the land rental 'market', so too does the unequal distribution of land rents, in that the unequal distribution of land rents may act as an incentive for rent seeking behaviour (Prasad and Tisdell 1996a). Certainly, there can be little doubt that the designer of the institutional structure, the colonial power, did not mean it to be equitable; rather, it was meant to integrate chiefs into the hierarchy of colonial rule and thus remove a possible source of opposition to colonial power (Akram-Lodhi 1997).

In exchange for the payment of rent, the NLTB is required to allow the peaceful occupation and cultivation of the land during the tenancy, provided the tenant adopts 'proper' husbandry techniques in using the land. At the same time, the tenant has the right to harvest any standing crop on the land within 12 months of the expiry of the lease. Any improvements to the land or construction of dwellings on the land must have the consent of the NLTB. Finally, in the event of a dispute between the tenant and the NLTB the ALTA provides for the establishment of a tribunal to arbitrate the dispute.

The ALTA appears, on the surface, to provide considerable security of tenure for tenants. However, the element of insecurity remains. This insecurity arises because the NLTB is functionally if not formally powerless to stop informal demands being made by the local land-owning units. Such informal demands are very common: the local *mataqalis* claim to be the rightful owners of the land and often seek to negotiate directly with tenants over a range of issues, particularly rents and leases. These arrangements are known as *vakavanua* (Ward 1995; Overton 1987; Eaton 1988; Prasad 1984). These informal demands have, at times, been translated into forceful and violent action designed to achieve a particular claim. Indeed, it has been recently noted by the *Fiji Times* (16 February 1996) that

land disputes have reached new heights in Fiji. Across the nation, landowners with a gripe against tenants are adopting a forceful and, in a few instances, violent methods to make their complaint known. They are resorting to vigilante-style roadblocks.

Conflicts between *mataqalis* and tenants often evolve into conflicts between landowners and the NLTB when the NLTB does not accede to landowner demands. In such circumstances, landowners, faced with opposition from both tenants and the NLTB, often threaten eviction.

Conceptually, the NLTB can be understood as an institutional monopoly designed to manage common property in the land rental market. In Africa, the World Bank has argued that institutional monopolies designed to manage common property in land create unnecessary economic costs. The World Bank has made a similar argument in Fiji, claiming that the NLTB is a costly and inefficient economic institution (World Bank 1995a). Moreover, as an institutional monopoly which distorts the operation of a key factor market, that of agricultural land, the NLTB has the capacity to distort economic signals on a national scale by affecting relative prices, production and distribution.

Institutional rigidities and the future of land tenure arrangements

As already noted, the ALTA came into effect in 1976. Pre-existing tenancy contracts were extended by 20 years, which meant that in 1997 leases began to expire. The expiry of land leases creates a major institutional rigidity that constrains growth in Fiji. Moreover, the long-term survival of the NLTB as a land tenure institution depends on how land lease problems are resolved, if for no other reason than the fact that the NLTB depends on rents to provide its income. The land lease problem in turn reflects a lack of flexibility within both the NLTB and the ALTA: despite being a pivotal land tenure institution, the NLTB cannot solve the land lease problem. This demonstrates that the NLTB and the ALTA (which regulates it) are inefficient economic institutions. The inefficiencies caused by such rigidities within land tenure institutions must be resolved if an economic environment within which growth can be facilitated is to be established.

With an awareness that land leases were going to eventually expire, a number of reports have been produced since 1992 which consider the future of legislation governing agricultural land in Fiji, and in particular whether land leases should be renewed. These have been written within a context of declining land availability: it is clear that the availability of agricultural land will continue to decline as

demand for residential, commercial and tourism development continues to increase. Moreover, they have been written in light of the aforementioned movement within the indigenous Fijian community to encourage a reversion of agricultural land to farmers within the indigenous Fijian community. Finally, the reports have been written in light of the apparent productivity differences that exist between indigenous Fijian and Indo-Fijian farmers. Prasad and Tisdell (1996b) have estimated that if 30 per cent of the leases currently held by Indo-Fijians were not renewed and the production on such land reverted to farmers from the indigenous Fijian community, there would be a production loss of 15.7 per cent of total sugarcane production. The estimate is based on the assumption that the productivity ratio between indigenous Fijian and Indo-Fijian farmers does not change.

In 1992 the NLTB considered the land lease issue. In 1993 the Sugar Cane Growers Council considered the same issue, and in 1996 the government set up the Agricultural Landlord and Tenant Review Research Unit to recommend changes to the ALTA. Even the World Bank, which has traditionally refrained from commenting on land leases and the structure of property rights in land, has now identified it as a major problem (World Bank 1995a). These reports highlight five issues that must be considered. The first issue is the duration of the leases that are to be renewed. Surveys into this issue have invariably found that tenants want leases with duration of more than 50 years, while landowners prefer leases with duration considerably shorter than the current 30 years. The second issue is the conditions attached to the awarding of a lease, including landlord-tenant relations and issues around compensation for land degradation and land improvements. The third issue is the compensation that is to be paid to tenants whose leases are not renewed. The fourth issue is the need for more land to be made available to members of the land-owning units. The fifth issue is the need to further develop dispute settlement mechanisms.

A widely canvassed solution to the land lease issue is that of a simple renewal of leases under the ALTA. However, this only provides a temporary solution to what is an institutional problem. So too does an alternative suggested by some in the NLTB: that leases be automatically renewed while at the same time the provisions of the ALTA are amended to restrict the rights of tenants. Therefore, the NLTB has recently issued a report on the ALTA which seeks to offer solutions to the land lease problem (NLTB 1997). In this report, the

NLTB considers the practicality of increasing the use of sharecropping and fixed wage contracts in sugarcane farming. This strategy is based on the assumption that ultimately leases will expire and land will revert to indigenous Fijian owners. Not all of these landowners will want to directly engage in production; therefore, they will enter into sharecropping arrangements with former leaseholders or they will hire Indo-Fijian wage labour to work on the land. To support an expansion of sharecropping or an increased use of wage labour, the strategy suggests that the leases of tenants be extended, but only for that area of their land on which their dwellings are located. Some leaders within the Indo-Fijian community have argued that this strategy represents a return to the *girit* era, during which time indentured South Asian labourers worked in Fiji under 5 year contracts.

The strategy contained within the NLTB report does not however understand the mechanics of sharecropping or wage labour contracts. Sharecroppers and wage labourers have no incentive to increase the intensity of their effort, as they do not receive rewards commensurate with production risk (Stiglitz 1986; Newbery 1979). Furthermore, the cost of monitoring and supervising sharecroppers and wage labourers is high, representing an extra cost that must be borne. As a consequence, a shift towards sharecropping or wage labour may result in a decline in net income. The productivity implications of such a strategy would be reinforced by the reversion of a substantial proportion of cultivated land to comparatively less-productive indigenous Fijian farmers. This strategy could therefore have extremely detrimental economic implications for Fiji as a whole.

Contrary to a strategy designed to increase sharecropping and waged labour, there are some who believe that farms should be amalgamated and the industry mechanised in an effort to enhance productive efficiency (NLTB 1996). It is true that amalgamation might result in economies of scale. Nonetheless, the financial cost of mechanisation could be very high and indeed might outweigh any efficiency gain for a considerable period of time. Furthermore, mechanisation would reduce the number of seasonal workers employed in farming, and particularly the large numbers involved in harvesting. The social cost of the loss of income could be significant.

A problem with these proposed 'solutions' is that they fail to recognise that the institutional structure governing tenure relations in rural Fiji results in a lack of well-defined property rights in land and

limits the extent of private property. From a theoretical point of view, this is likely to have a detrimental affect on economic performance, if for no other reason than the creation of what are in all likelihood substantial transactions costs in sorting out the existing leasing arrangements. Solving this problem, from the point of view of neoclassical economics, is reasonably straightforward: extend the development of private property rights in land. This implies two steps. The first step would be to convert all crown land into freehold property and allow any lease holders to buy the land they work at a market-determined price. This could have several benefits. The first would be to initiate an increase in agricultural productivity. The second would be to bring in revenue for the government. The third would be to boost public support for government economic policy, and in particular privatisation policy. However, as already demonstrated, crown land represents only a small percentage of total agricultural land.

Therefore, a second, more radical, step would be necessary. This step would be the sale of all native land under lease. As demonstrated in Table 5.3, some 29 per cent of total native land is under lease to indigenous Fijians, Indo-Fijians and members of other communities. This means that the sale of native land under lease would involve more than a quarter of all native land. This land could be sold to the leaseholder at a market-determined price. However, the sale of native land does not necessarily imply the ownership of all such land leaving the indigenous Fijian community. There is no doubt that some of the land would be bought by individuals from within the land-owning unit; indeed, population growth requires that some land revert to the *mataqalis*.

The cessation of communal ownership would of course be controversial. However, as pointed out by Ward (1995), the indigenous Fijian chiefs of Ba, Bua and Lau advocated individual ownership before the first native land ordinance in 1880. Indeed, Ward (1995) argues that the colonial rulers may have imposed communal ownership in Fiji. Moreover, the NLTB was created in an era where both the international and the domestic political and economic environment were very different. It was, as has already been argued, created by the British to serve specific political purposes. In this light, private property in land is not necessarily alien to indigenous Fijian political thinking.

Nonetheless, the privatisation of Crown land and the sale of native land would mean that some farmers would lose their leases. The impact of this could however be obviated to a degree by the sale of unleased land in a different location to those who had lost their land. This should, of course, apply to both Indo-Fijian and indigenous Fijian leaseholders. It could also be obviated by carefully planned resettlement and compensation packages for displaced tenants.

There are however problems with the neoclassical solution. Obviously, even if one accepts that the sale of land to individuals would increase efficiency, the actual transaction would take place in a relatively new market in which prices would be unlikely to reflect opportunity costs; this could distort the incentives usually associated with the private ownership of property. At the same time, there are reasons to doubt that land privatisation would in fact increase efficiency. Certainly, in Africa, where efforts at land privatisation have gone quite far, there is little evidence to support the argument that land privatisation has increased agricultural productivity and hence agricultural efficiency (Bassett 1993:14).

The reason why land privatisation has not improved agricultural efficiency is because, in the language of economics, land privatisation is a partial equilibrium solution to a general equilibrium problem: the theory of 'second best' must be taken into account. The theory of second best demonstrates that when markets are subject to a series of distortions the removal of one distortion need not necessarily improve economic performance and can indeed lead to a deterioration in economic performance (Lipsey and Lancaster 1956).

The theory of second best is relevant to the circumstances in rural Fiji. Clearly, the operation of the NLTB and the ALTA has affected the process by which land transactions in Fiji take place: the inflexibility of both institutions has undoubtedly created inefficiencies. These inefficiencies will have had effects on other, related markets, and most notably labour and product markets, as the impact of distortions filter through the economy. This then is where the theory of second best can be applied. Even though the NLTB and the ALTA have created inefficiencies in land transactions in Fiji, labour and product markets have undoubtedly adjusted in light of these inefficiencies. In such circumstances, removing the influence of the NLTB and the ALTA from land transactions—through, for example, privatisation—can have no predictable effect because it is not possible to know how

labour and product markets, having adjusted to take account of existing inefficiencies, would readjust in light of privatisation. Indeed, it is quite possible that privatisation would result in labour and product market adjustments that would further weaken economic performance. Thus, even though it is land transactions that are the source of economic inflexibilities, it is the overall institutional structure within which rural markets in Fiji operate which has been compromised. In such circumstances, there is no reason to believe that the removal of distortions in one market, the land market, no matter how inefficient, will in fact improve economic efficiency.

It has already been argued that institutional rigidities in rural Fiji are likely to have had an effect on production, investment and distribution. These rigidities require imaginative solutions, the details of which are beyond the scope of this chapter. What is clear however is that further work is urgently needed. Out of a total of 134 native land leases that have expired at the time of writing, 102 have been renewed for a further term of 30 years. While such a development is to be welcomed, albeit as a temporary solution, this does mean that 32 leases have not been renewed. The ongoing expiry of land leases suggests that land will revert back to farmers from within the indigenous Fijian community even though such farmers are less productive than their Indo-Fijian counterparts. The implications of such a development for economic performance are nothing less than a particularly vicious cycle: less productivity implies less investment, less growth and economic stagnation. There can be little doubt that Fiji is confronting a major challenge.

Conclusion

Mainstream economics has long been criticised for not taking seriously the role of institutional factors in determining the economic performance of countries. However, renewed interest in institutional economics has firmly put the role of institutional factors on the economic policy agenda for many developing countries. One pivotal institutional factor is the nature of property rights. According to North (1990), explaining disparities in the performance of economies requires consideration of, amongst other institutional factors, the nature of property rights. In many developing countries the nature of property rights are not well defined. Uncertainty over property rights has implications for investment, production and distribution.

In the case of Fiji, uncertainty over property rights in land is clear. The indigenous Fijian community controls the bulk of the arable land in Fiji. This land is managed on behalf of the land-owning units by the NLTB, which negotiates land leases and collects rents within the framework of the ALTA. The bulk of the tenants dealt with by the NLTB are from the Indo-Fijian community. However, both the NLTB and the ALTA, as land tenure institutions, lack flexibility: they are not 'efficient' institutions. The ongoing expiry of land leases has led to renewed examination of alternatives to the current, inflexible institutional structure. This chapter has critically reviewed the alternatives, and has found them lacking. Yet the need for an alternative is clear if Fiji is to avoid a vicious cycle of less agricultural productivity, less investment and less growth. The new government which emerged following the 1999 general elections will therefore have to address the important task of finding a viable alternative to the current institutional structure and restoring confidence amongst the agricultural community in Fiji.

Endnote

1. This subsection is based directly on Prasad and Akram-Lodhi (1998) and is used with their permission.

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