LAND RIGHTS IN RAROTONGA (COOK ISLANDS): TRADITIONS AND TRANSFORMATIONS[1]

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At the beginning of the 20th century, a Native Land and Titles Court was established in Rarotonga by the New Zealand colonial administration. Through the procedures and rulings of this court, European notions of land rights influenced land matters in the Cook Islands during the colonial period to an extent unknown in the mission period of the 19th century. In the postcolonial era, European ideas about land rights and ownership of land were also, and continue to be, influential for legal concepts and practices in the Cook Islands. In my paper I will discuss ways Rarotongans dealt and deal with the plural situation of land tenure that now exists. As a case study I will present a conflict of two families about a huge piece of land that has now continued for over 100 years. By looking at the arguments and proceedings of the two parties, the plurality of ideas and rules that originate from different contexts and are appropriated and recontextualized in the Cook Islands can be identified. In order to provide a more comprehensive insight into notions of rights to land in Rarotonga I will focus on land allocation in the following part of the paper.

Introduction

When I asked Rarotongans a number of questions about ownership of land in the island at the beginning of my fieldwork, I got a wide range of answers. Here are some examples: "I am a landowner"; "My family owns a lot of land"; "My children will get a piece of land when they need one"; "Tangiia gave the land to my ancestor and his family"; "I have registered shares for this section of land so that I am entitled to a piece of land." At

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first the answers did not reveal to me the notions Rarotongans have about rights to land and land ownership. But soon I was introduced by some knowledgeable persons to land statutes, to the register of titles, and to Court sessions. I concentrated on these aspects, but I realized soon that many statements and answers did not fit into this framework. I then realized that other notions are not only present in the heads of the people, but have direct consequences for the level of practice of land dealings. In the following article I will analyze the different legal notions, and I will concentrate on notions about rights to land and about ownership of land.[2] My question thus is "Who is considered as having legitimate rights to land and why?"

In order to give answers, it is important to understand the history and the complex and plural situation concerning land rights in Rarotonga today. I will first present what is known about land tenure in Rarotonga in the past and how it changed during the decades of the presence of Europeans. In order to carve out some important aspects of notions of ownership, I will present a short description of a court case that I followed up during my research. In order to show some other aspects of the topic, I will explain the complex possibilities of land allocation in Rarotonga using the example of so-called "occupation rights."

Pre-European Land Tenure in Rarotonga

According to oral tradition, land was allotted in Rarotonga after the arrival of two parties of settlers under the leadership of Tangiia and Karika to members of the parties who were bestowed with a *mataʻiapo* title. Mataʻiapo is a Rarotongan category of named titles. The title name (e.g., *'Puati Mataiapo'*) is hereditary and was ideally transferred from father to the eldest son. Holders of mataʻiapo titles had a high social status in precolonial times and usually a leading position for a lineage. Even today their prestige is high in certain contexts and they quite often have a leading role in their immediate or extended family. Each mataʻiapo was allotted one *tapere* (subdistrict) (Crocombe 1964, 9). Rarotonga was (and is) subdivided into *vaka* (districts) and tapere (subdistricts). According to Crocombe the mataʻiapo were usually the titular heads of the tapere and of the people who resided there (Crocombe 1964, xiv).

The tapere were connected to descent groups, the major lineages (Crocombe 1964, 20), but the land of a tapere was often allotted to minor lineages, which were the most important landholding units in the system. The allocation of land to minor lineages was relatively stable and permanent (Crocombe 1964, 41). Land allocation within the land of a minor lineage was less permanent and was dependent on people's needs. Thus

"occupation rather than allocation appears to have determined the relative spheres of influence within the minor lineage" (Crocombe 1964: 43, 52). For both major and minor lineage, the word '*ngāti*' was used according to Crocombe (1964: 27).[3]

Crocombe stresses that individuals had different kinds of rights to land of the descent group. The most important were use rights and rights to decide about use and transmission of use rights (Crocombe 1964, 44). These rights were thus based on membership in the descent group of the father or mother, on adoption, on marriage into the descent group of the spouse, or on consent of the chief of a descent group to whom he or she was not closely related (Gilson 1980, 17; Crocombe 1964, 58). The specific rights of individuals to land depended on their social position in the lineage (Crocombe 1964: 43–49; Gilson 1980, 16). Generally the younger individuals succeeded as members of the descent group and thus as holders of rights to the land of the descent group (Crocombe 1964, 52). Because of the cognatic descent principle (whereby claims of an individual or group may be made through links to relatives on either side of the family) concerning membership in a lineage, individuals had the opportunity to activate land rights in more than one lineage (Crocombe 1964: 47–49). Land rights that could be transferred by will were limited (Crocombe 1964, 53), although land rights were sometimes transferred by gift or—temporarily—by permission of members of the resident lineage, allowing nonmembers to occupy a piece of land ("permissive occupation") (Crocombe 1964, 55). As Crocombe states and Campbell demonstrates on the basis of examples, land gifts normally were not absolute but had to be given back—at the latest when the family of the donee had died out (Crocombe 1964, 56; Campbell 2002: 232–233).

Mataʻiapo had a few special functions concerning the control of land: an important task of mataʻiapo was the allocation of land should a major lineage split into separate minor lineages (Crocombe 1964, 40) or the reallocation of land when a descent group became extinct—in accordance with other members of the group (Crocombe 1964, 39). Although Crocombe explains these tasks for mataʻiapo, it is in my opinion valid for any titleholder who held the position of a head of a (major) lineage.

A range of different kinds of adoptive relationships existed in Rarotonga, so that it is not possible to generalize on the status and the land rights of adopted children. Mostly the persons who were adopted had genealogical connections to the adoptive parents, and the land rights of adoptees were determined at the time of adoption (Crocombe 1964, 56). Although Crocombe states that adoptees could acquire membership in a lineage by adoption, he specifies that in the case of an adoption of an unrelated person

"this membership was marginal and its retention dependent on continued acceptance by the group" (Crocombe 1964, 29).

Although this is not the focus of his study, Campbell mentions that allocation of land was fluid and flexible (Campbell 2002, 237).

History of the Present Land Tenure System of the State

In the Cook Islands today, the High Court Land Division is responsible for the formal aspects of land matters in Rarotonga. Its predecessor, the "Cook and Other Islands Land Titles Court," was established by the colonial government in 1902, and the judge's most important task at that time was considered to be determining the rightful owners of land in Rarotonga. Thus, in the following years owners were determined and recorded in a register of titles for many of the named sections of land on the island. This "registration" of land was not obligatory but was undertaken only on application (Gilson 1980: 113, 140). Ownership was officially determined according to customary principles of the Cook Islands Maori. This was later adopted in written law (Cook Islands Act 1915, Sect. 422).

For most of the sections, several owners were determined and registered (in many cases five to ten) and subsequently treated as tenants in common. Land for which the owners were registered was called "Native freehold land," in contrast to the unregistered "customary land." It is evident that titleholders were favored, since they were registered as co-owners or even as sole owner for numerous sections (Crocombe 1964, 110 f). In many cases determination was at the very least doubtful: apparently some rightful owners were omitted and in other cases persons without rights in a section were included (Browne 1994, 207). Crocombe showed that in addition, the court departed considerably from custom in several respects and that, in fact, the court itself was the originator of changes of land tenure principles (Crocombe 1964, 117–128).

One of the most important principles established by the court was a bilateral succession principle that is still valid today: all the children of a deceased landowner are equally entitled to inherit ownership rights, and on application they are registered as equal successors. This differs considerably from the pre-European principle, where the different children of a deceased person had different rights to land. The character of their land rights depended on whether and how they were associated with the group of the deceased person.[4]

The "Cook Islands Act 1915" prohibited wills concerning land (Sect. 445) and determined that succession to deceased natives "shall be determined in accordance with Native custom, so far as such custom extends;

and shall be determined, so far as there is no Native custom applicable to the case, in the same manner as if the deceased was a European" (Sect. 446). The court interpreted custom in a specific way—or questioned whether custom was applicable at all—and in the case of the death of an owner established the practice of awarding succession to all the children (Crocombe 1964: 118–120). The descendants of a deceased owner have the opportunity to register as co-owners in the register of titles by applying for a "succession order" before the court. Formally no particular pieces of land of the section are allocated to individuals; the co-owners hold only nonlocalized shares of a whole section. According to state law it is possible to exchange shares in different sections so that one can consolidate shares of different sections (although for a variety of reasons this option is practically never used). Because the Land Court was involved in the process of determining the landowners as well as in the process of legal succession to deceased persons, its competence—and with it the competence of the New Zealand colonial administration—to influence land matters was considerable compared to the situation in other Polynesian colonies—as for instance in Samoa (Hiery 2002).

After the Cook Islands became independent in 1965 regulations concerning land ownership that had been introduced by the colonial government were adopted and over the course of time only partly modified, so that many basic rules are still in effect today.

An important characteristic of the land tenure system still valid today is that the Cook Islands Act 1915 protects all orders on investigation of titles that were made previously, so that they cannot be disputed even today (Browne 1994, 207; Cook Islands Act, Sect. 428, 390A).[5] This prevents the basic ownership structures that were determined by the colonial court from being changed. Today the process of registering owners has nearly been completed in Rarotonga— it is only for a few areas in the mountainous interior of the island that the owners are not specified in the register of titles.[6]

To sum up, according to the legal system of the state, Rarotongans are owners of a share of land when they are registered in the register of titles. Registration happens today mostly in the case of the death of persons who are registered. Their children have the opportunity to succeed them. Because the succession rule is bilateral, the following consequences can be observed: first, the numbers of registered co-owners of sections of land increase from generation to generation; second, individuals formally are becoming registered co-owners in an increasing number of sections—with a decreasing size of their share. This in turn has an equalizing effect on landownership: Even if some individuals got no shares at the time of the

original registration of owners, his or her descendants today most probably are landowners. They or their descendants married landowners, and because of bilateral succession the descendants gained land rights in some sections.

The decreasing size of the individual shares may have further consequences: if a person applies for a lease (see below), a determination of relative interests can be accomplished, and the result can be that the share of the land is too small for a house site. Until today the size of an applicant's share did not play a role in most land allocations, but now in an increasing number of applications there is a tendency to take this into account.

The process of registering and the persons who are registered does not tell much about who is actually using the land. Therefore the question arises: Who is actually entitled to use the land?

Te Puna Case

In order to exemplify notions of ownership, I will give a short summary of a conflict that was dealt with before the court a number of times. An important court hearing took place when I did my fieldwork in 2000 (and accidentally again in 2010). I do not intend to present the whole case—in fact it has now lasted for over 100 years and is very complex. Instead, I concentrate on the events in 2000 and here again on those that are relevant for the topic of this article.[7]

The conflict goes back to an investigation of title in 1908. After a court session where different opinions about the rightful owners were heard, nineteen co-owners were registered for several land sections. To twelve names the words "life interest" were added, whereas seven names did not have this addendum in the register of titles. The court case in 2000 was a rehearing of the case in 1908.[8] Under usual circumstances, rehearings of this kind are not possible in the Cook Islands, but in 1980 a Private Act (Rehearing of Te Puna Lands Act 1980) was passed that specifically enabled a rehearing of the case of 1908 for the land in question. There was opposition to this act, but in the end it remained valid. For various reasons the rehearing did not take place until 2000.

The conflicting parties were (1) the descendants of a part of the persons who were distinguished with the addendum "life interest" in 1908 and who presented themselves as "Tupuna Family" or sometimes also as "Ngati Tupuna" and (2) a party that used the name "Ngati Karika" or sometimes "Karika Family." Both parties met repeatedly before and during the case in family meetings. In both families there was one person who was central for organizing the case—for research, genealogies, collecting information,

coordination of arguments, and the like. Both parties had lawyers for official representation before court—Ngati Karika was additionally represented by family members who had no formal legal training.

The disputed land is named "Te Puna," and it is an area in the south of Rarotonga. It is located in the district Takitumu in the subdistrict Titikaveka. It originally comprised seven sections, and its size is 60 hectares. It ranges from the coast to the mountainous interior of Rarotonga, and is thus a typical tapere, a subdivision, of the island.

In the court case in 2000 both litigating parties tried to show that they are the *'atu 'enua* (true owners) of Te Puna—or, more exactly, that they had this status in 1908. Both also tried to show how it happened that the other party came in the position to claim the land. In 1908 no members of the Karika family occupied the land or used it permanently. The Tupuna family argued that they only gave members of the Karika family temporary permission to use a part of the land as a camping site so that they could use the rich fishing grounds at this part of the coast. They argued that the Karika family had expanded the use of it and finally had claimed the whole land successfully before court. The Karika family explained in 2000 that they in fact did not use the land at that time because the whole family consisted of only seven persons and thus they did not need all the land at that moment. They maintained their claim, so they argued, in appointing custodians for the land who represented the interests of the Karika family and allocated it to tenants. According to the Karika family the persons who claim the land now are the descendants of these tenants.

The Arguments

Both parties submitted a large number of arguments. I summarize the most important ones in order to show the central lines of argumentation of both parties. The baseline of the Tupuna Family was the oral tradition of the settlement of Rarotonga by Tangiia and Karika and the subsequent appointment of titleholders and the allocation of land. A traditional claim to land is, according to their arguments, connected with membership in vaka (tribes). The influence of a vaka is limited to the districts of its settlement. The district Takitumu, where the land Te Puna is located, is controlled by the tribe of Tangiia. Both *ariki* who were appointed by Tangiia did not allow interference from outside—e.g., from other ariki like Karika Ariki who lived in another district. Ngati Tupuna is a subtribe of the tribe of Tangiia, and because of this it is seen as original landowner. Tangiia allocated land to the titleholder of the Tupuna Family (Tupuna Mataiapo), and his descendants today still occupy the land Te Puna. For this argumentation, various evidence was produced. A considerable part of the evidence

was the attempt to prove the existence of the mataʻiapo title Tupuna Mataiapo. Because for some time no person held the title, it was necessary to go back to historical documents and protocols of the Land Court for this.

The second important line of argument was related to the time period during which the land was used and occupied by members of the Tupuna Family. The Tupuna Family tried to prove that Te Puna was occupied by them for a long time before 1908.

Regarding the arguments of the Karika Family, it is necessary to differentiate between two groups of representatives. The first tried to stop the rehearing altogether. This was rejected by the court. The second group, which included a lawyer, concentrated on two points: (1) A rehearing was not justified because there was no new evidence. The original hearing was sufficient. (2) Because of Cook Island laws, long occupation is no reason for an entitlement to land. The lawyer did not raise any new arguments for the entitlement of the Karika Family. Basic arguments for this entitlement were contributed by another representative of the Karika Family. In a written affidavit that was read during the court session he explained why the Karika Family is the original owner of the Te Puna land. His starting point was also the oral tradition of Tangiia and Karika—especially the aspect that they allocated the land among them and the mataʻiapo about twenty-eight generations before. According to his statement, some of Karika's followers occupied this region even before this event. This claim was maintained until today. As an argument for the rightful claim of the Karika Family to the land, Margaret Karika described some incidents in her childhood and in her life. One was the payment of tribute of ancestors of some of the persons who call themselves Tupuna Family at present to the Karika Family.

The Hearing and the Outcome

After the explanations of the lawyers and representatives of the families, witnesses were heard and questioned. Several witnesses from both sides emphasized that the land Te Puna is *ipukarea* (ancestral land) that is inherited from ancestors. The other party tried to invalidate these arguments. The longest period of the hearing was occupied by consideration of the question whether a mataʻiapo with the name "Tupuna" ever existed, whether he was a mataʻiapo in Titikaveka, and whether this title is connected or identical with another one (Paroro). Another central topic that was dealt with was the question for how long the land was occupied and used by the Tupuna Family. They emphasized that at the beginning of the twentieth

century the land was used by them for several generations at least. The Tupuna party as well as Ron Crocombe, who was heard in the court session as an expert for Cook Islands land tenure, emphasized that long occupation is a very—if not the most—important criterion for having a right of ownerhip to land. In contrast, the Karika party denied this as a valid argument.

On the third and last day of the hearing, a meeting between the parties out of court took place where the willingness of both for an extrajudicial settlement became clear. Nevertheless the hearing of evidence was completed. The judge did not give a decision because he supported the attempt of the parties to seek an amicable settlement.

After the last day of the court hearing, further meetings between the conflicting parties took place. Both sides emphasized the will to settle the conflict and find a compromise. They agreed that the representative of Ngati Karika would make a practical suggestion for a compromise. The principle of this compromise was that the addendum "life interest" should be canceled so that the respective persons would become normal co-owners and their descendants would be entitled to succeed them. Although not all members of the Karika Family agreed in the beginning, the compromise was suggested to the Tupuna Family, but they did not agree. The reasons they gave were that they did not want a solution that was based on the decision in 1908 at all. Additionally, they were concerned that persons who had no rights and did not contribute (financially and otherwise) to the court case would get rights to the land. The Tupuna Family suggested that the present use and occupation of the land should be the basis for negotiation. The respective persons or families who have rights in the eyes of the Tupuna Family should get the land as freehold (and not as co-owners as in the solution suggested by the Karika Family).

All the attempts to come to a solution in the following years failed. The result was that in 2010 a new court hearing took place.

What can be concluded from the case about notions (and practices) of ownership and property? Obviously two main arguments were central for legitimizing ownership: (1) The land was given to the titleholder of the family by Tangiia or, alternatively, Karika was the original owner. (2) The long occupation argument was not acknowledged by the Karika family but was taken seriously. In the end it was a strong argument in favor of the negotiation for settlement out of court.

The Pokoinu/Nikau/Ppuauta Case

In order to trace the provenance of these arguments and the associated notions I will sketch an example from the beginnings of the court hearings

in Rarotonga. It is the determination of owners of the tapere Pokoinu, Nikau, and Pupuauta in 1905. In the hearing two parties claimed ownership of the land, and both argued similarly—that it is "ancestral land given to them by Tangiia when he divided out the land of this island" (Minute Book of the Cook Islands, vol. 2 [MB 2], 21). The members of one party (thirteen mataʻiapo) said that they occupied the land until 1823. Then they had to give it away. The other party (Ngati Makea) said that the thirteen mataʻiapo had the land only for a short time in their possession. Colonel Walter E. Gudgeon, the judge at this time, argued in the reasons for his judgment that Ngati Makea held the land for eighty years "in undisturbed possession." The land "has actually been occupied by Ngatimakea [Ngati Makea; A. P.] and there is no power in British law that would justify a Court in denying the title of an Ariki and people who have held on to land from 25 years much less 80 years" (MB 2, 21). Whereas both the parties justified their claim to the land by emphasizing that it was ancestral land given by Tangiia, the European judge argued mainly with the time period of possession. Both arguments can be seen in numerous other court hearings and judgments. The long possession was often raised by Rarotongans as a second argument—the first one was that it was given by Tangiia. The judges, however, often used it as a main reason (e.g., MB 2: 22B, 112, 169, 252, 360; MB 3: 30, 34, 72, 180).

Notions of Ownership of Land

Campbell, who also analyzed minute books of the Land Court, says that the evidence of descent from a mataʻiapo that was invested by Tangiia and a continuous occupation of the land establishes a valid claim to a land (Campbell 2002, 221).

So, is the Cook Islanders' notion of rights to land today generally based on the notion of the oral tradition of Tangiia and Karika having given the land to titleholders and families? Is land generally seen as a gift of Tangiia and Karika? Are rights to land only legitimate when the land was given to a titleholder for his family? Is a family seen as owner or having rights to the land when family members occupy the land for a long time?

Before drawing conclusions, it is important to have in mind that for cases like this Cook Islands law requires argumentation based on "ancient custom and usage of the Natives of the Cook Islands" (Cook Islands Act 1915, Sect. 422). So it would be possible that the people involved bring forward arguments that they believe to be customary but are not consistent with their notions about ownership today. This could be used as a strategy rather than a true statement about custom and usage. But my conversations with the

people who were involved in the case convinced me that at least for the main actors it is actually important and decisive for ownership that the land is "ancestral land," given to them by their ancestors or culture heroes. The topic of "long occupation" is even more complicated. The members of both parties knew that judges in the past have accepted this as a valid reason for ownership. Additionally my own research confirmed the statement of Crocombe in his book about Cook Islands land tenure that at least *within* a lineage long occupation was and is important to establish a claim to a piece of land (Crocombe 1964, 52; Pascht 2006).

Thus my first careful conclusion is that the people who were involved in the case see it as a valid condition for ownership of land that an ancestor of people living today or a culture hero gave the land to them. The detail of how they got the land is not important. Also the notion that (at least in the past) families and not individuals were the owners is still present today.

The second conclusion is that today "long occupation" is taken seriously as a way of legitimizing ownership—although it is not seen as fully legitimized by tradition as the sole factor. In my opinion it is extremely difficult to determine the provenance of this. As mentioned above when an extended family occupies or uses land for some generations, it establishes rights that exceed temporary use rights: the use rights become more permanent, and family members also gain rights to decide about transmission of use rights. So a head of a family can, for example, decide that one of his children will get a piece of land that he has used previously for planting, as a land for a dwelling house. But this is only valid for land that is connected with the lineage anyway.

In order to learn more about land rights in contemporary Rarotonga, it is necessary to look at the process of the allocation of land to individuals or couples. Because for most of the land in Rarotonga owners are registered in the register of titles today, and this ownership structure at the legal level of the state can normally not be changed.

Allocation of Land

Today the allocation of pieces of land to persons who are registered as co-owners of the whole section concerned constitutes a large proportion of land matters in Rarotonga. The following description does not relate to "customary land" but to "Native freehold land" only. According to state laws "Native custom" is therefore not a source of law for the procedures described below.

History of Land Allocation

The principles of allocation in the period before European contact depended on the level of political organization. The basic notions can be summarized as follows: the allocation of land for the entire island of Rarotonga to a number of heads of families or lineages—usually titleholders, especially mataʻiapo—was done by Tangiia and/or Karika and could be changed only by warfare and conquest (and sometimes by gift). At the level of the tapere, land was—if required—further allocated to groups or persons, and here the heads of the lineages played a significant role under certain conditions. Within the minor lineages land was allocated according to the demands of the extended families and individuals—if the land was not occupied anyway by succeeding members of the lineage.

During the period between the establishment of the Land Court in 1902 and the 1960s, and even later, only a few details are known about land allocation to individuals or families. Crocombe's most important conclusions in this respect are (1) In the years after the determination of the landowners, custom did survive in respect of the role of the chiefs as trustees of the land and in the allocation of land to junior branches of the family (Crocombe 1964, 111). (2) At the time of Crocombe's research the category of people who occupied and controlled the land in practice was usually the same as it was in pre-European times (Crocombe 1964, 155).[9]

With the establishment of the court a new social category was introduced at the level of the state law in the register of titles: the registered co-owners of a section of land. No legal provisions for allocation of land among these co-owners of a section existed at the level of state law until the year 1946. Because almost nothing is known about the details of land allocation among lineage members who were, respectively, co-owners in the period after the arrival of the missionaries in 1823, or after the establishment of the court in 1902, it can only be assumed that these arrangements were based to a high degree on the principles, procedures, and institutions of the period before European contact. But there can be no doubt that these principles, procedures, and institutions, as well as the role of leaders, changed during the different periods of contact. Furthermore, it can be assumed that especially the establishment of dispute forums by the missionaries and the general increase of the power of the titleholders—particularly of the ariki—(Crocombe 1964: 79, 93; Gilson 1980: 28, 33; Campbell 2002) was certainly highly influential on allocation procedures.

In the first decades of European settlement, most of the land occupied by Europeans was allotted to them informally by permissive occupation.

The formal possibility to lease land has existed since 1891 when a Deeds Register was established and used by Europeans who required the land for planting cash crops or for a house site (Crocombe 1964: 73–74).

After its establishment in 1902, the Land Court concentrated on the determination of owners of land in Rarotonga. Ideally the persons who were registered were those to whom the land was allocated at the moment of the determination of the owners. It can be assumed that one consequence was a strengthening of the position of the titleholders because for numerous land sections they were registered as sole or co-owner. It can also be assumed that their influence decreased in the sections where they were not registered as co-owners. Crocombe concludes that the action of the court resulted in a "very considerable modification to custom" concerning the land rights of persons and groups (Crocombe 1964, 110). Considering solely the legal system of the state, I agree. The formally registered land rights of individuals were no longer dependent on his or her position in a social structure but on the incorporation in a list of co-owners of a particular section of land. But this does not reveal anything about the land allocation on a practical level. Considering the practice of land allocation today, it can be seen that it is not formal rules but numerous informal elements that are the determining factors. But it is also possible that in the first decades after its establishment, the actions of the Land Court were in fact highly influential regarding this practice. On the basis of the present research it can, in my opinion, not be determined exactly if or to what degree there was a basic change in land allocation practice in this period.

The first formal procedure for land allocation was introduced in order to promote agricultural production in Rarotonga. With the Cook Islands Amendment Act 1946, section 50, the possibility of an "order as to occupation of Native land" was introduced by the colonial administration in order to encourage the planting of citrus trees by providing security of tenure for the planters. In the following years this procedure for gaining the right to a specific piece of land (normally one acre in Rarotonga) was used to a considerable extent to obtain land for planting citrus trees (Crocombe 1964, 143–146). Since 1960 the occupation rights scheme has been used for house sites as well (Crocombe 1964, 146), and, in fact, it has been used mainly for this purpose in the last decades.

In his chapter about tenure reform and productivity, Crocombe emphasizes the inflexibility of transfer of land rights introduced by colonial legislation (especially the Cook Islands Act 1915). He proves this by making a list of possibilities of transfer that existed in precontact times and comparing them with the legal possibilities in the 1960s. He concludes that nearly all of the "customary" possibilities were barred by legislation or by the court.

The only—newly introduced—legal possibilities for transfer in his view were occupation rights and leases (Crocombe 1964, 141 f).

Today a number of different possibilities exist and are used for allocating and transferring land rights in Rarotonga. The most important in the last decades were (1) The "occupation right": the right of occupation of a piece of land for one or more persons that is registered in the register of titles. The kind of use—in most cases for residential or agricultural purposes—is recorded. (2) The lease of a piece of land for a maximum period of sixty years. The possibility of a lease has frequently been used in recent years. (3) The partition of a section, where pieces of land are allocated to one or more persons as absolute owners. Other possibilities according to state law to allocate or organize the use were used rarely (for example, vesting orders, short-term crop leases, incorporation) or are new (for example, subdivision according to the Unit Titles Act 2005). Not all land allocations are done according to state law. Informal arrangements exist, where the court is not involved.[10]

It is important to mention that according to the state laws of the Cook Islands land cannot be sold. More precisely, this means in legal terms that the alienation of land in fee simple and for a longer period than sixty years is prohibited; the only exemption is the alienation of land to the Crown for public purposes (Cook Islands Act 1915, Sect. 468, 469).

Contemporary Land Allocation: the Example of Occupation Rights

In the following part, I will concentrate on land allocation in connection with occupation rights. Although alternative ways of allocation are becoming more frequent, it is still important today.[11]

Before I give further details on occupation rights I sketch very briefly the most important of these alternatives. Sometimes the legal possibility of a partition of a land section is used in order to allocate one or more pieces of land to individual persons. Individuals can be registered as sole owners for a part of the section—according to her or his share of the whole section. The new part is treated as a completely new section.

More frequent than a partition is a pro forma lease to a private person. When it is used as an allocation instrument, the co-owners of a section of land formally lease the land to a person who is an owner of the respective land section himself. A nominal rent of one NZ dollar is determined per year. In contrast to occupation rights, leases are accepted as security for a loan by private credit banks—an important reason for people to apply for a lease. When leases are used as allocation instruments, today they are often transferred to an occupation right after several years.

Coming back to occupation rights, I will first look at state regulations and institutions and then change the viewpoint to other levels that also exist.

"Nowadays one needs a legal right of occupation on a particular piece of land to ensure security of tenure. Once you are granted that legal right of occupation, you are effectively the owner of that particular piece of land" (David 1987, 165). Rima David's characterization differs remarkably from that of Tina Browne, who characterizes occupation rights as follows: "Strictly speaking this is no more than a right to occupy a particular piece of land" (Browne 1994, 208).

The different foci of the two citations above show the ambiguous character of occupation rights. Although the statements are to a certain degree contradictory, they respectively reveal an important facet of occupation rights. The two aspects—to be effectively the owner and to have only the right to occupy that can be taken away—are both prevalent in the present perceptions of Rarotongan people. Although it might be assumed that both authors represent the same point of view of the legal order of the state—Tina Browne as a lawyer and Rima David as registrar of the court—they describe the two different aspects or views of occupation rights.

Although the procedure for obtaining occupation rights is relatively complicated, today it is a common part of land allocation processes. The applicant is in most cases himself or herself a landowner according to the register of titles. Only rarely in practice are occupation rights formalized for a person who is not registered as landowner for the respective section (although the limitation to landowners is not a legal requirement).

The number of occupation rights vary considerably from tapere to tapere and from section to section: in the tapere Pouara in 2001, there were eighteen valid occupation rights in one section—and in the remaining thirteen sections there were only fourteen valid occupation rights altogether.

The citation above from Rima David suggests that an occupation right gives security of tenure. This is true in certain respects. The state has basically the power to enforce the right of occupation of a piece of land of an individual if it is threatened. The security is, however, restricted to certain conditions: for example, usually it is determined for house sites that the occupation right expires if, once granted, the building of a house does not start within the next five years and is not completed after seven years.

In the following account, I differentiate between the regulations, institutions, and legal categories that exist at the level of the state. Subsequently, I will show that there is another important level where different legal notions exist.

State Regulations for Occupation Rights

The basic legal conditions for occupation rights were created by the already mentioned "Cook Islands Amendment Act 1946," when it became possible for the court to make an order "granting the right of occupation of the land or part thereof" to one or more individuals (Cook Islands Amendment Act 1946, Sect. 50). The usual procedure to formalize an occupation right differs somewhat according to the circumstances. The Cook Islands Amendment Act 1946, Sect. 50 (1) says that the court may make an order granting a right of occupation if it "is satisfied that it is the wish of the majority of the owners of any Native land that that land or any part thereof should be occupied by any person or persons (being Natives or descendants of Natives)." The act does not provide specific procedures for co-owners to arrive at a decision about occupation rights. Since 1970 a passage in Cook Islands legislation exists where "owners" and "assembled owners" of land are defined and where regulations regarding them are included. The Cook Islands Land (Facilitation of Dealings) Act 1970, Sect. 40 ff, says that a meeting of assembled owners is to be summoned by the court. It may pass resolutions for different purposes—among others for incorporations and the leasing of land (Sect. 51). Occupation rights are not mentioned. Meetings of landowners of this kind where formalities are regulated in detail are mainly conducted today in cases of commercial leases of larger areas to persons who are not landowners.

The Court

The Cook Islands High Court Land Division is the successor of the colonial Land Court. Presiding judges at court sittings are judges from New Zealand who come to Rarotonga a few times a year for two or three weeks. For routine matters, where there are no conflicts, and in urgent matters justices of the peace from the Cook Islands chair the court sittings.

The public sessions of the court are mostly concerned with routine matters: succession orders, occupation right orders, leases, partitions, and so forth. While in these cases applicants speak personally, in more complicated cases or in conflict cases lawyers or "land specialists" represent the applicants.

Although there is no prescription to use the formal legal system of the state for the allocation of land or have allocations (and other land transactions) registered (Mataio 1987, 176), it is becoming more and more common. Thus the Cook Islands High Court Land Division is involved in an increasing number of allocations. The owners of a section of land decide de facto

about the allocation of pieces of land when land is leased or an occupation right for land is given, as I will show below. But it is not possible to allocate (or alienate) land on the level of the legal system of the state without the involvement of the High Court: The court must make the order or confirm the resolution of a meeting and can ultimately influence and decide on allocations.

Although in practice the judge and the court staff do not use all the potential competences they have, in some instances they are quite influential. An important point is that applicants for occupation rights must meet certain criteria—for example, the court must be convinced that an applicant who currently lives in New Zealand will come back and build a house on the house site for which he or she applies. Although some persons in Rarotonga have detailed knowledge of legal matters concerning land, the majority of Rarotongans have only partial knowledge of legal acts and procedures concerning land. The consequence is that the court staff play an important role in advising people about the legal options. The staff, who enable research in the register of titles; the registrar; and the deputy registrars are in many cases the first persons to be consulted, and they can inform applicants about legal options and their consequences and about the costs and complications of certain procedures. And finally, because there are only few provisions in the legal code for land matters, there is room for flexibility in court decisions in the case of conflict. The judges have a relatively wide spectrum of options.

On the other hand, practice shows that judges in the last decades were reluctant to make decisions in conflict cases. Often they tried to hand the matter back to the litigating parties, to encourage further meetings, and to achieve a settlement out of court.

The Registered Co-owners of a Section of Land

As has been suggested, the legal category of co-owners of a section of land that was introduced by the Land Court by registering mostly more than one person per section formally plays a decisive role when it comes to occupation rights, leases, or the like. The studies of Crocombe (1964: 109–117) and Gilson (1980: 139–147) suggest that the persons who were registered as co-owners of a section were mainly persons who had genealogical connections and that they were part of a more comprehensive cognatic lineage connected with the tapere where the section was situated. Neither author deals with the question of which persons are actually registered as co-owners and the consequences of this. Although Baltaxe mentions that the recent co-owners of a section are not identical with the original

landowning descent groups, the *ngāti*, he also does not examine the differences (Baltaxe 1975, 71).

Who is registered as co-owner today depends on the determination of rightful owners at the original registration, which took place in most cases at the beginning of the 20th century, and on successions to these persons. Because of the bilateral inheritance rule, which—as mentioned before—was introduced by the colonial government, for many sections of land the number of co-owners today is very high—it is not unusual to find that the actual number of co-owners amounts to 100 or even 200 persons.[12] Analysis of data collected in the year 2001 in two tapere shows the following picture: there are a considerable number of co-owners who are not related and are not part of a more comprehensive cognatic descent group connected with the tapere in which the section is located. These persons are not only registered as co-owners, but in a considerable number of sections they actually use pieces of land. Different factors are responsible for the fact that persons who are not related to the descent group today are registered as co-owners: the main one is that in numerous cases at the time of registration not only members of the ngāti connected with the respective tapere were registered as co-owners, but also other persons who had no (near) genealogical connections, such as adopted children, friends, or temporary users of land in the section on the basis of permissive occupation. Today the descendants of these persons are co-owners of the section—if they have applied for a succession order. Depending on the original registration and also on the number of descendants of the original owners, the number of persons who have no genealogical connection with the original descent group today can be considerable.

Legal succession also influences the fact of who is co-owner of a section of land. There are numerous examples where merely a small percentage of the persons who were entitled by the legal system of the state to succeed a deceased owner actually went to court to obtain a succession order and were registered in the register of titles. This is partly because people were not aware of their rights. In this case there is a certain probability that they or their descendants at some time in the future will finally succeed and get the opportunity to obtain a use right for a share of the particular section(s). In some cases, however, the reason for not applying for a succession order is an arrangement made between descendants of the deceased or between the members of a family. By this means some families, respectively their titleholders, try to limit the consequences of the bilateral succession. The descendants are encouraged not to apply for a succession order for all the sections of land for which the deceased person was registered as owner but to confine themselves, so that the individual shares in every section remain

as large as possible. In such cases the aim usually is to provide every descendant (of the same generation) with an equal share.

Land Rights of Ngāti and Extended Families

Considering the apparent common land allocation practice, the role of kinship groups here (as in other spheres) has changed to such an extent since the first contact of Rarotongans with missionaries until today that they seem to have disappeared altogether. Today the different kind of groups—the ngāti, the *kōpū tangata*, and the *uanga*—are not clearly differentiated in everyday life and are used together with the term "family" with several meanings. Baddeley concluded for the 1970s that ngāti were no longer landowning corporations but only corporate groups in the sense that they had a chiefly title and were only symbolically linked to land (Baddeley 1978, 137).

But, looking more closely at the situation today, it can be observed that the notion of kinship groups is still important for specific situations and contexts connected with land. Particularly the term ngāti is used when rights to land are discussed today—as can be seen, for example, in the Te Puna case described above. Although the term is used rarely, it is used in certain contexts to denote a group of persons with a common ancestor to whom a piece of land was originally granted. The following example from a report by the Koutu Nui about Cook Islands Maori traditions shows these two sides: the ambiguous use of the terms "family" and "ngāti" and at the same time the connection of the term with the ancestor: "Family (Ngati): (The word "family" in the Maori sense is the extended family.) The clan (Ngati) are all the children from a common ancestor, the source of the land . . . and adopted children of blood relationship to the clan" (Browne 1994, 213). Another example is the use of "Ngati" as part of the name of a conflict party in a legal conflict where a claim for a piece of land must be proved. In the Te Puna case, the name "Ngati xy" was used to denote those persons who regarded themselves as legitimate owners of the respecting land because they saw themselves as descendants of a titleholder who was the original owner of the land at the time of the investigation of title at the beginning of the twentieth century.

These and other examples show that a ngāti today is not only important in relation to titles. It does not—as Baddeley writes—comprise only the titleholder and those who support him, but in specific situations includes all the persons who regard themselves as descendants of the titled ancestor. In these contexts it is also relevant in relation to land—especially the land that is connected with the title.[13]

Whereas in pre-European times individual land rights were, according to Crocombe, directly connected to social relations and thus varied according to the status of an individual within a group (Crocombe 1964: 43–49), these notions of the differentiation of rights play only a minor role for the practice of land allocation today. In practice today the two principles "necessity" and "inheritance" play a more prominent role for land allocation within the family. A person is mainly considered to have automatic rights to occupation of land of a particular family as a member of this family—or the person is seen to have rights because he or she is a registered co-owner and owns a legally defined share of the land.

Practice of Allocation

Knowledge of the existence of the allocation possibility "occupation right" and of the main features of the usual procedures is relatively common today in Rarotonga. If somebody wants to build a new house, in a large number of cases he or she applies for an occupation right. Many Rarotongans differentiate between occupation rights and other formal allocation possibilities, such as leases, regarding the influence of the family[14] on land matters concerning the piece of land. They perceive the influence of the family as significantly greater when they have an occupation right.

Over the course of time the following practical procedure that is common for many cases has developed. The people who are seen as rightful landowners are invited to a meeting that in many cases takes place near the respective piece of land. Subsequently, the applicant submits a written application including the protocol of the meeting to the court. In this protocol it is verified that some specific formalities were observed, of which the most important is whether the majority of the owners agreed to the proposed location and area of the occupation right (David 1987, 167). If the requirements are fulfilled, the application for the occupation right is added to the list of applications, which are dealt with at the next public court sitting. If there are no objections and the formal conditions are complied with, the judge ratifies the application and it is registered in the register of titles.

In practice informal meetings that are mostly called "family meetings"[15] are the most important decision-making bodies for many land matters in Rarotonga today. They constitute a central factor for land allocation procedures. Although the legal provisions of the state system vary for different types of land allocation (occupation right, lease, partition), the practice has evolved of conducting a meeting in every case. The court encourages this practice: formally required or not it usually will only make an order if a

meeting takes place—or, alternatively, the consent of the owners has been shown satisfactorily by written declarations (David 1987, 168). Sometimes regulations of the already mentioned Land (Facilitation of Dealings) Act 1970 about procedure at formal meetings of assembled owners are adopted in family meetings—especially when the meeting is about an application for a commercial lease.

But who takes part in these informal family meetings? Who effectively decides about use rights? Although in more formal meetings the owners of a section of land according to the register of titles will attend the meeting, in more informal meetings those persons who are accepted members of a certain family will be invited. This means that there is some ambiguity about the question of who has the right to be invited. In a number of cases conflicts are the result of disagreements in this respect. An example is when descendants of originally registered co-owners who were known as being adopted in the respective family or who were included in the list of co-owners because of other circumstances (e.g., because they used the land at that moment) are consciously not invited to meetings. The notions of who is seen as related, of "kinship," and of "kinship groups" thus play an important role here.

In practice an occupation right for a house site does not expire automatically as is provided by state law when no house is built after seven years. This is only the case if the family, a family member, or a registered co-owner claims it back. Rarotongans stressed that a "good family" does not claim land back even though it is not used. Although none of my informants indicated that she or he is member of a "bad family," they were noticeably concerned that an unused piece of land has to be given back. In Rarotonga a considerable number of houses in shell form are noticeable, and it can be observed that some time has gone by since the building process has stopped. But the garden around these houses is looked after, and in some cases even decorative plants are planted.

Head of Families and Titleholders

In a number of Rarotongan families, titleholders today are influential and are seen as heads of families. But the roles and influence of titleholders vary considerably from family to family. Concerning land matters, it differs in many respects from the role in pre-European times described above.[16] State law does not contain any provisions for a form of organization of the family or of registered co-owners of a section of land, and there is no formal position for titleholders and no formal role in the process of land allocation. Their influence in this process is located at a different level. In a number

of cases they assume important tasks concerning land matters: titleholders in Rarotonga are often the first persons who are consulted by those planning to apply for an occupation right or a lease for a piece of land. Thus they can influence certain aspects beforehand: for example the choice of the piece of land, the size of the piece, and the kind of procedure. Furthermore, they often call a meeting where the matter will be discussed and are chosen as the chairperson. As mentioned above, a chairperson has different efficient means of influencing the result of a meeting. But several mataʻiapo in Rarotonga do not confine themselves to this role where influence is more indirect, but they actively plan the allocation of land in a whole section and try to convince the owners to agree to their ideas. They also act as passive or active mediators in their role as chairpersons as well as outside meetings and court sittings. Genealogical, customary, and historical knowledge is an important basis for the influence of titleholders and sometimes, additionally, knowledge of the different possibilities that exist in the legal system.

The Legal Order of the State and the Legal Order of the Families Combined

Today notions about land rights that originate from the pre-European history of Rarotonga, notions that were imported from Europe, and notions that have developed during the last 200 years coexist and are combined in many ways. In contemporary Rarotonga, in addition to the legal order of the state, legal orders on the family level exist.

When I refer to "legal orders," "law of the state," and "law of the families" it is on the basis of the statement of Franz von Benda-Beckmann that "law can exist also outside the contexts defined as 'legal' by legal doctrines, in the thought and social practices of people in everyday life" (Benda-Beckmann 1997, 10). I speak of "legal orders of families" because Rarotongan families can be seen in my opinion as semiautonomous social fields in the sense Sally Falk Moore defined them (Moore 2000 [1978], 55 f). This does not mean that there are no other legal orders than these and the order of the state—or legal notions outside of these orders that influence legal processes concerning land matters. The legal orders of the different families of Rarotonga are similar, but they also differ in certain respects.

When Mapo, a sixty-one-year-old Rarotongan planter, explained to me his land rights, he talked about "his" land when he meant land that he used for some decades and that was given by his father to him. He intended to give certain pieces to his children for them to build a dwelling house. He intended for them to apply for an occupation right or a lease. According to

the state system the land was not allocated then. He explained that he or his children would have to ask the family whether they agree to give them an occupation right. The reasoning would be, as in many other cases like this, that he got the land from his father and that he has used it for a long time. So although the family has basically the right to decide about the use right, Mapo's voice is more influential in the decision process. As in many other examples here, notions of different provenance are combined in the same process. The rights to land in this case are derived from being an accepted member, respectively, a child of a family that is accepted as having ownership rights to the land—the legal order of the families. But the registering of the right as "occupation right" in the register of titles, including the formal procedures connected with it, is located at another level—the legal order of the state. In conflict cases the situation often gets more complex. The right derived from the family order can be disputed on the basis of the order of the state. If, for example, someone is not accepted as family member but is included as co-owner in the register of titles, this person may argue against the right of Mapo's children and may try to get the occupation right for herself or himself.

So in different instances the prevailing legal orders have influence to different extents. When the family agrees to the wish of one of the members to use a piece of land and have his or her right registered, there will be a meeting of the accepted members, a protocol will be made, and the application together with the protocol will be filed in court. The court will accept this, and the occupation right will be registered. In other cases the state order will be more influential: when members of the family disagree, the occupation right will probably not be registered because the judge will not accept it. When somebody who is registered as co-owner of the respective section also applies for an occupation right for the land—perhaps before Mapo's children apply—it becomes uncertain whether they get the right. Persons who are not accepted as family members but are registered as co-owners of the respective land section can use the state order to obtain use rights for land. In any case the formal side is similar: an occupation right shall be registered. People whose ideas are strongly influenced by the legal order of the family level and those whose ideas are strongly influenced by the legal order of the state both operate and interact in the same social fields. They can use the different orders to reach their, possibly conflicting, goals.

Conclusion

So who is seen as having rights to land in contemporary Rarotonga? And what are the notions behind this view? Contrary to the implicit assumption

of Ron Crocombe in his book about land tenure in the Cook Islands (Crocombe 1964), notions of rights to land that have roots in precolonial times and thus differ considerably from the notions that form the basis of the contemporary legal order of the state have not disappeared but play an important role for people in Rarotonga today: they are preserved and changed within the social fields of the families. Contemporary notions and actions of Rarotongans concerning land rights are influenced by the legal order of the state and by the legal order of one or more families. In practice they exist nearly always in combination: persons combine them consciously and unconsciously in legal and other processes.

Although in many land transactions the legal order of the state does not play a central role, no land transaction is done without reference to it. I have shown two examples where those different orders are involved. The first one was the case of the Te Puna conflict. Here notions that derive from Rarotongan traditions about ownership of land were decisive for the course of the case: land was seen as a gift from Tangiia and Karika to titleholders for their families, it was seen as given from one generation to the next and as permanently connected with this family. Additionally, an important argument that was in different form a "traditional" one and, at the same time, is present in introduced British law—was the long occupation of a piece of land. The framework and the rules for how the case was dealt with—in a European-style court with a judge and corresponding rules of procedure—is part of the legal order of the state.

In order to address other land rights than ownership rights I chose my second example—land allocation—with the focus on the widespread "occupation right." Here we find a range of different combinations of legal orders depending on the specific situation. On the family level, the notion exists that members of families get temporary use rights when they need land. These use rights are seen as getting more and more permanent in the course of time and can be given to the next generation. The legal orders of the families can be very influential. But in other cases—especially when conflicts develop—the state order can influence the process or it can be used by individuals to reach their goals. Depending on the situation, but also on ideas that they have themselves about land tenure, individuals claim use rights to a piece of land on the basis of membership of a family, or on the basis of formally registered ownership, or both.

The legal situation that prevails as a result of the presence of different legal orders and additionally of other legal notions that derive, for example, from Rarotongans whose notions were influenced by the New Zealand legal system, is flexible and variable, and possibilities can be chosen according to

specific requirements. Although the legal order of the state seems to restrict the possibilities of transfer of rights (Crocombe 1964, 142), such as allocation of rights to family members, the possibilities in practice today are diverse and flexible. While Ron Crocombe in the 1960s saw mainly restrictions, the result of present flexibility and plurality is, on the one hand, an increase of possibilities for land transactions in general. On the other hand, it can in fact mean a restriction, because the interplay of the legal orders can be very complex and the legal procedures cost time and money. Additionally, and in connection with this, only some Rarotongans know about it. The wide range of possibilities is thus not available for everyone.

NOTES

1. The article is mainly based on fieldwork of thirteen months in 2000 and 2001 in the Cook Islands and New Zealand. The focus was the island of Rarotonga, where I spent about eleven months. The fieldwork was funded by the German Research Foundation (DFG). I would like to thank the many people in Rarotonga who always very kindly helped me with my research and especially the staff of the Cook Islands high Court Land Division for their cooperation as well as Thomas Bargatzky and Marianne Hartan for helpful comments on an earlier version of this paper.

2. For this article I use the definition of ownership that Chris Hann advocates: the greatest possible interest in a thing in a system of law (Hann 1998, 6).

3. The focus on kinship and on kinship groups as basic units of society and other problematic aspects of the 'lineage model' were criticized from many sides (e.g., Kuper 1982). For a critique of anthropological representations of a Polynesian society in terms of kinship, see for example the article of Bargatzky about kinship and territory in Samoa (Bargatzky 1990).

4. Crocombe distinguishes between "primary rights," "contingent rights," "secondary rights," and "permissive rights" of individuals to land (Crocombe 1964: 47–48). A discussion of these would exceed the scope of this article.

5. As far as I know there is only one exception: in the Te Puna Case a decision about a determination of titles of the Land Court in 1908 was disputed. A special law had to be enacted to make this possible.

6. The situation is different for other islands in the Cook Group.

7. For a more detailed account of the case see my dissertation (Pascht 2006).

8. In the past there were already other court sessions in connection with this conflict—the most important took place 1912, 1949/1950, 1962, and 1983.

9. It was usual for the primary members of the group of owners and not for secondary or contingent members to occupy and control the land (Crocombe 1964, 155).

10. For example: informal arrangements are frequent between Rarotongans who live temporarily or permanently in New Zealand or Australia and those who use their land during their absence.

11. I will not deal with the topic of migration here. Migrants who live overseas have rights to land on Rarotonga—rights to decide about the use and sometimes even use rights like an occupation right. Migrants and returnees tend to use the state laws of the Cook Islands in order to get use rights (see Pascht 2006, 288–294; Pascht 2011; and Crocombe, Araitia, and Tongia 2008).

12. In the previously mentioned extreme case of section no. 7B in Vaimaanga, 276 co-owners were counted in the year 1995.

13. See also the example of the descendants of Ngati Maoate, who did not recognize those descendants of the founding ancestor as members of the ngāti who were descendants from a time before he moved to the tapere now known as Ngati Maoate (Baltaxe 1975, 143)!

14. The term "family" is used in Rarotonga for a number of social phenomena and appears in many conversations—also when they are held in Cook Islands Maori. The corresponding Maori term would be kōpū tangata. Because it would be beyond the scope of this article to discuss the meaning of the term in each case, I will use "family" in an undifferentiated way. See also Baddeley's discussion of the term kōpū tangata (Baddeley 1978, 146–150).

15. There are meetings concerning different matters—here I will look only at those concerned with the allocation of land.

16. As already mentioned, according to these accounts, an important task of mataʻiapo was the allocation of land when a major lineage splits into separate minor lineages (Crocombe 1964, 40) or the reallocation of land if a descent group died out—in accordance with other members of the group (Crocombe 1964, 39).

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