

# SUBMISSION TO THE STANDING COMMITTEE OF SOCIAL AFFAIRS ON THE ROTUMA BILL No 6 and Bill No 7

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## Introduction

The island of Rotuma is situated between 12° - 15° south latitude and between 175° - 180° east longitude from the meridian of Greenwich.<sup>1</sup> It is approximately 482 km NNW of Suva. It is about 13 km long x 5 km wide and is divided almost in two by an isthmus, about 230 meters wide at the western end of the island.<sup>2</sup> The unspoilt, beautiful islands are surrounded by extensive, vast ocean of waters, approximately 207 nautical x 300 nautical miles<sup>3</sup> which is purportedly, rich in oil and marine resources. It is the most isolated island in the Republic of Fiji.

The island of Rotuma was annexed to Fiji by Great Britain on 5 November, 1880 “for the good government of the inhabitants thereof.”<sup>4</sup> On 13 May, 1881 the official Deed of Cession to Great Britain was signed by the 7 Chiefs.

The island is the ancestral homeland to an estimated 20, 000 Rotumans world-wide. The population of Rotumans who live on the island is under 2, 002. (Census, 2007)<sup>5</sup>

## ROTUMA – The Ancestral Homeland

The monthly boat trip on the *Lomaiviti Princess II*, lasts two days and two nights, and yet, a Rotuman’s devoutness to make the trip to the ancestral homeland is unwavering. Partly, because as a migrant community in Fiji and beyond, the Rotuman persons’ cultural identity is entwined with the ancestral homeland. The feeling of being *watched over* and *blessed* by one’s ancestors echoes deep within and that “...this journey home represents a lifetime of obligations”, and also because to every loyal Rotuman, the sea journey, often taken in sometimes rough and dangerous seas “...is a pilgrimage in one’s lifetime”.<sup>6</sup>

Hannah (2009) commended how Rotumans in Australia keep the many images of the ancestral homeland alive, “The formation of the Australian Rotuman cultural identity journey ...thus charted through the sea-lanes of their passage to and from their homeland...”<sup>7</sup>.

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<sup>1</sup> Rotuma Act (Cap 122)

<sup>2</sup> <https://en.wikipedia.org/wiki/Rotuma> accessed 26 November, 2016

<sup>3</sup> 1° equivalent = 69miles. <https://www2.usgs.gov/faq/categories/9794/3022> accessed 21 November, 2016

<sup>4</sup> Annexation of Rotuma document

<sup>5</sup> Fiji Census of September, 2007. Many people have left for Fiji so the number is below 2002. Fiji estimation is over 9,000. No census of Rotumans abroad has ever been done.

<sup>6</sup> Carol Delaney (2010), renowned anthropologist in *Investing Culture: An Experimental Introduction to Anthropology*

<sup>7</sup> Cited from the PHD thesis by Agnes Ferguson Hannah (2009), *Being Rotuman In Australia: Cultural Maintenance In Migration*.

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This journey by sea and the first glimpse of the ancestral homeland in the early dawn is an awe-inspiring and overwhelming experience.

Undoubtedly, the notion of *a lifetime of obligation and pilgrimage* resonates with the Rotuman cultural values of kinship, reciprocity and being in commune with the ancestral spirits.

The Bills, if enacted into laws, will destroy Rotuman indigenous customs and traditions with grave consequences for current and future generations.

The primary desire of the Rotuman people is for their indigenous rights under Fiji and international laws to be recognised and respected and that Rotuman traditions and customs and land and sea territories are protected for future generations.

### **Indigenous Rights under International and Fiji Laws**

The Rotuman people are recognised as indigenous people in Fiji's Constitutions of 1970, 1990, 1997 and 2013.

As indigenous people, our rights are also protected by the **UN Declaration of the Rights of Indigenous Peoples of 2007**. According to Article 31, the major emphasis "... *the indigenous peoples will be able to protect their cultural heritage and other aspects of their culture and tradition, which is extremely important in preserving their heritage.*" The elaboration of this Declaration is recommended by the **Vienna Declaration and Programme of Action (VDPA)** and adopted by the World Conference on Human Rights in June 25, 1993.

**The ILO, C169 - Indigenous and Tribal Peoples Convention (ITPC) of 1989** has in its Preamble:

*"Recognising the aspirations of these peoples [indigenous] to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live"*

**According to Article 4 (1) of C169**, there needs to be put in place, "...*special measures to safeguard indigenous institutions, property, labour, cultures and environment. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned*"

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### **Article 5 of C169 – ITCP states:**

*“In applying the provisions of this Convention:*

*(a) The social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;*

*(b) The integrity of the values, practices and institutions of these peoples shall be respected; and*

*(c) Policies aimed at mitigating the difficulties experienced by these peoples [indigenous] in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.”*

In 2010, Fiji ratified the **UN Convention for Safeguarding Intangible Cultural Heritage** which indicates government’s commitment to preservation of intangible cultural heritage.

In fact, the plight of the Rotuman people is known to the UN which has officially recognised **the Rotuman language on its list of endangered languages**. There is also the acknowledgment by the Fiji Department of National Heritage, Culture and Arts that the **Rotuman community is one of the most endangered groups, as far as the survival of our culture and language is concerned**.

The Rotuman tangible and intangible cultural heritage is reflected in our practices and norms and in our allegiance to our land and sea territories. The UNESCO funded project which is administered by the Department of National Heritage, Culture and Arts is welcomed. Unfortunately, the **Bills do not have provisions for intellectual property on Rotuman traditional and customary practices and art forms .e.g. songs, dances, weaving**.

The responsibility and duty to protect our tradition, customs, intellectual properties, and land and sea boundaries has now become every Rotuman’s assignment.

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## **The Review Committee Lacks Credibility**

The Rotuman people were not widely and properly consulted in 2011 - 2012 before the Bills were tabled in Parliament in May, 2015. **e.g. no attempt was made to engage youth, women and professionals.** There was no informed discussion on the legal consequences of the Bills. Furthermore, the Review Committee's Draft Report discussion that was to happen before the 2014 National Election never took place. <sup>8</sup>

It is pertinent that the Bills are explained to the Rotuman people because there are specific sections of the Bills that erode and remove our cultural inheritance, economic and social rights and radically change our system of governance by denying the authority of our Chiefs and the Council.

The *Viti kei Rotuma* (Fiji and Rotuma) catchphrase has its origin in the 1880's, a significant factor because of its legal implications which was ignored by the Review Committee. According to the World Methodist Council website, the Rotuma Mission came under the Fiji District of the Wesleyan Missionary Society in 1841.<sup>9</sup> The Church used the catchphrase because Rotuma had an independent government (state), an independent status but with close ties, which is still maintained despite the annexation of Rotuma to Fiji by Great Britain in 1880.

Similarly, many Rotumans in Fiji and elsewhere have maintained close ties to relatives on the island. The Rotumans may not be familiar with their laws, but they do know how to reciprocate and nurture the Viti kei Rotuma connection. This is despite not being members of the *Rotuman Community* as defined in s2 of Rotuma Act. The remittances that they transmit annually give people on the island the highest per capita in Fiji. <sup>10</sup>

The Rotuma Act (Cap 122) and the Rotuma Lands Act (Cap 138) are specific legislations for the island. Any discourse on Rotuma – Fiji issues is very significant and must

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<sup>8</sup> The emails are from Rotumans who wanted to find out about the Draft Review Report. (Annexures "B", "C" & "D").

<sup>9</sup> <http://worldmethodistcouncil.org/about/member-churches/australia-and-pacific/name/fiji-and-rotuma-methodist-church/> accessed on 22 November, 2016.

<sup>10</sup> Bureau of Statistics Report, 2007

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include the full participation and co-operation of the Rotuman community on the island and the Rotuman people in Fiji and elsewhere. **There is no doubt that the proposed laws have impinged on issues that need extensive consultation and may require Constitutional law expertise.**

We maintain that the Review Committee did not widely consult the different demographics of the Rotuman population. This makes the consultation process not transparent and not accountable to the Rotuman people and any submission (s) to the contrary is misleading.

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A comparison and contrast of the Rotuma Act (Cap122) and Bill no. 6; Rotuma Lands Act (Cap 138) and Bill no. 7 is discussed below with references to relevant **section (s)** in the Acts and **clauses** in the Bills.

In respect of the **ROTUMA BILL 2015** (Bill no. 6 of 2015):

**1. Part 1. clause 2.** “Rotuma means the islands of Rotuma.”

**s2. Rotuma Act (Cap 122) definition, “Rotuma means the island of Rotuma and its dependencies, rocks, reefs and fisheries lying between the twelfth degree and the fifteenth degree of south latitude and between the one hundred and seventy-fifth degree and the one hundred and eightieth degree of east longitude from the meridian of Greenwich”.**

1.1 The current law definition is derived from the **Annexation of Rotuma document, of 17 December, 1880.** (Refer Annex “A”). This definition was written into **Ordinance 29 of 1927** (47 years later) and has remained (136 years later);

1.2 Previous governments have honoured and respected without question the **“Viti kei Rotuma”** history;

1.3 On the other hand, the proposed definition deprives indigenous Rotumans of ownership of marine resources between 12° and 15° south latitude and 175° and 180° east longitude from the meridian of Greenwich;

1.4 The relevant obligations are under the **Law of the Sea** and other international maritime laws, **UN Laws on Indigenous Rights** and **C169** that necessitate Rotuma’s separate territorial composition and extensive rights to its own sea territory, to be acknowledged and honoured; <sup>11</sup> and

1.5 The reality that Rotuma Island could become an island in Fiji instead of the ancestral homeland of the Rotuman people, is alarming and has shocked Rotumans world-wide. <sup>12</sup>

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<sup>11</sup> Law of the Sea Bulletin #66 of 2008; Marine Spaces (Territorial Spaces) (Rotuma and its Dependencies) (Amendment) Order 2012 (United Nations Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs)

<sup>12</sup> Rotuma on facebook [www.facebook.com](http://www.facebook.com) and the Rotuma website [www.rotuma.net](http://www.rotuma.net)

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2. The **Administration and Governance** of the Council of Rotuma is undermined.  
**Part 2, clause 4 (2)** Members of the Council (a) 7 district Chiefs; (b) 7 *faufisi* (*unelected* sub-chiefs); (c) 2 appointees of the Minister; and (d) The District Officer (DO) an ex-officio member.  
**s12 Rotuma Act** Members of the Council (a) 7 district Chiefs; and (b) 7 elected representatives of the people. The civil servants on the island are advisors with the District Officer (DO) as an ex-officio member.  
  
2.1 The Minister's appointees are political. The independence of the Council is at stake;  
  
2.2 In the proposed law, department heads are excluded from the Council. Their counsel is valuable to the Chiefs. This will eventually justify the irrelevance of the Council.
3. **Part 2, clause 6.** The Council shall meet annually.  
**s13 Rotuma Act.** The Council meets at least 4 times annually.  
  
3.1 The 7 Chiefs are also members of the FORUM OF THE ROTUMAN PEOPLE (Forum). The Forum has 4 members appointed by the Minister and it remains to be seen whether 2 of them are also members of the Council;  
  
3.2 If the 2 nominees of the Minister are the same nominees to the Forum and the 7 Chiefs being members of the Forum as well, it makes perfect sense to disband the Council.  
This is an indirect way of undermining the role of the Council, an indigenous institution and its traditional role in the Rotuman society.
4. **Part 3, clause 7 (1)** proposes a new body to be called THE FORUM OF THE ROTUMAN PEOPLE (Forum). **clause 7(d) gives powers to the Minister to appoint 4 members to the Forum. Part 7, clause 23 gives powers to the Minister to make regulations, following consultation with the Forum.**

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**s15. Rotuma Act.** The Council's duties include good government and well - being of the community and to administer the Rotuma Development Fund (Fund). **s16 gives powers to the Council to make regulations** that relate to the peace, order and good government of the people on the island.

4.1 The proposed law transfers the administration of the Fund to the Forum and removes the powers of the Council to decide on social and economic matters;

4.2 The powers to make regulations is also transferred to the Minister limiting the powers of the Council to traditional protocol and customary issues;

4.3 However, any customary issues could be tabled in the Forum, if 4 of the 7 Chiefs give their approval;

4.4 The proposed functions and duties of the Council against the pre-eminent role of the Forum attempts to weaken the respect that Rotumans have for our chiefly system; and

4.5 It is critical that the Council remains the source of unity and harmony on the island.

5 The **Appointment and Dismissal** of Rotuman Chiefs do not accord with Rotuman customs and traditions and differs significantly from the current law.

**Part 4. clause 11(2)** provides for the election of the district chief by *all* the *mosegas* of the district. **clause 12 (1)** gives the disciplinary action on a district chief to all the *mosegas*.  
(2) Any appeal is to be made to a Tribunal.

**s18 (1) Rotuma Act.** "District Chiefs shall continue to be elected in accordance with Rotuman custom..."

5.1 The custom and current practice is based on a rotational basis amongst the *mosegas* of the district. **s18 (3) Rotuma Act** provides for the Minister to remove from office any district chief. There is no tribunal in the current law.

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6. **Part 7, Clause 24.** The Rotuma Act (Cap 122) is repealed.

6.1 The Act will lose its history of the following Ordinances:

**Nos 9 of 1927, 2 of 1945, 9 of 1955, 4 of 1958, 19 of 1962, 5 of 1964, 22 of 1964, 37 of 1966, 17 of 1968, 34 of 1970, Act No 14 of 1993 and Act No 43 of 1998.**

6.2 The only people who will know about the historic information in these repealed laws are researchers. Examples of the significance of the information that will be repealed:

a) **Ordinance No. 4 of 1958** ensures that regulations made by the Council “shall not have effect unless and until they have been approved by resolution of Parliament.” (s20 Rotuma Act);

b) **Act No 43 of 1998** repealed s20 Rotuma Act;

The **transparency and accountability** of the Council need to be restored if the Council is to be the Custodian of land for **all** Rotuman people.

c) **Ordinance 4 of 1958** defines who is a **Rotuman**. Prior to 1958, Rotumans on the island were called “natives”;

d) **Ordinance 37 of 1966** defines the people who belong to the “Rotuman community”. The current definition includes indigenous Rotumans and *itaukeis* on the island. It doesn't include Rotumans who live outside of the island; and

e) **Ordinance 37 of 1966.**

s3 Rotuma Act. **Application to Rotuma of Acts of Fiji**

The consequence of the exclusion is that, **All Acts in Fiji can apply to Rotuma regardless of the circumstances of the island and whether the inhabitants permit them or not.**

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In respect of the **ROTUMA LANDS BILL 2015** (Bill no. 7 of 2015):

## **1. Part 3 Rotuma Lands Commission**

**Except for clause 7 (4) the rest of the proposed law is uplifted from the Rotuma Lands Act (Cap 138)**

### **s4. (2) Rotuma Lands Act**

*“It is hereby declared that from the commencement of this Act no Rotuman shall be registered as a member of more than one kainaga ...”*

1.1 Rotumans had rejected s4 (2) which requires Rotumans who were born before 1959 to register under the paternal OR the maternal lineage. Rotumans who were born after 1959 and whose father is Rotuman shall be registered as per the father’s wish.

1.2 There are *ad hoc* committees that have been charged to implement duties pertaining to land issues.

**1.3 The land issues are controversial and closely linked to tradition and custom that the full participation and co-operation of the Rotuman people is necessary.**

## **2. Clause 7 (4.)** This provision states that “All Rotumans shall ...be registered on both maternal and paternal lineages within the PUK ‘ES ‘ON FAMOR ROTUMA”.

2.1 The PEFR is a new concept and adopted from the VKB for the *itaukeis*; and

2,2 This provision is misleading because there is no automatic entitlement to *hanua ne kainaga* (*clan owned land*).

## **3. Part 5. Clause 26 (1) Transmission of Land** states that “The *hanua ne kainaga* shall be transmitted though both the paternal and maternal lineages in the following ways –

(a) In the case of paternal lineage, as to legal rights; and

(b) In the case of maternal lineage, as to the consent of majority of the male members of the *kainaga*.

**s4. (2) Rotuma Lands Act.** The current provision gives Rotumans the choice to register on the father’s or the mother’s *kainaga* (clan). This registration is not to be confused with the registration in the PEFR.

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3.1 The current provision was rejected by the Rotuman people in 1959. It has since been a red herring. i.e. ineffective;

3.2 On the other hand, **clause 26** discriminates against women does not comply with provisions of **Chapter 2 – Bill of Rights of the 2013 Constitution** and provisions of the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**. This provision is also arbitrary;

3.3 Furthermore, in the Rotuman culture, paternal and maternal land transmissions happen on equal terms; and

3.4 This provision is culturally insensitive and inappropriate as it reduces the traditionally respected status of Rotuman women at the *whim of male relatives on the island*.

4. **Part 5. clause 28.** Transmission of *hanue ne 'on tore*.

This land is vested in a single individual and on the death of the owner, the land is inherited by the last surviving member of the 3<sup>rd</sup> generation as *hanue togi*. This is a new land holding type, it means *purchased land* and could cause problems to the person who inherits the land.

**s26 (1) Rotuma Act** This land is vested in a single individual and on the death of the owner, the land is inherited by the last surviving member of the 3<sup>rd</sup> generation as *hanua pau*.

4.1 The current law enables the new owner to *sell* or *gift* land and still be called *hanua pau*. On the other hand, **Part 5 clause 29** prohibits the creation of *hanua pau* which is not in accord with Rotuman customs and traditions. This is discriminatory and arbitrary.

5. **Part 5. Clause 29** Creation of new *hanua pau* is prohibited.

**s26 Rotuma Lands Act.** The current law doesn't prohibit the creation of new *hanua pau*.

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5.1 This provision discriminates against holders of such land who will no longer be able to *gift* or *grant* such land, as is customary.

**6. Part 5. clause 31.** Adopted Children. "...legally adopted child shall be deemed to not be a child of his or her adopter.

**s28. Rotuma Act.** "...an adopted child shall not be regarded as being in existence."

6.1 This is against Rotuman culture because adoption is a common practice and adopted children traditionally enjoy the same rights as biological children. This includes the right to use land as a member of the *kainaga*;

6.2 These provisions deny the lawful rights of legally adopted children. They are discriminatory, unconstitutional and arbitrary; and

6.3 They do not comply with **Human Rights Decree 11 of 2009** which requires that people must not be discriminated against on the basis of birth; **Article 2 of the Universal Declaration on Human Rights** which provides protection in granting rights based on birth; and **Article 17** which grants specific human rights to own property alone.

**7. Part 6. clause 37. Repeal** The Rotuma Lands Act is repealed.

7.1 Rotuma Lands Act (Cap 138) will lose its history and along with it, many customs and traditional ways that Rotuman have used in the past; and

7.2 The proposed laws have provided the motivation for Rotumans to educate ourselves on issues that relate to the island.

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## **Provisions in the Rotuma Act (Cap 122) that are excluded in Bill no.6**

### **8. Part I Section 3 Rotuma Act Application to Rotuma of Acts in Fiji**

- (1) Except in so far as Rotuma has been expressly excluded from the provision thereof, all Acts are hereby declared to apply to Rotuma;*
- (2) In applying any provisions of any Act to Rotuma such Acts shall be construed as containing any variations in respect of Rotuma made necessary by this Act or any other Act specifically applicable to Rotuma; and*
- (3) All Acts when applied to Rotuma shall be construed to apply only so far as the circumstances of the island and its inhabitants permit ...*

**8.1 This means that all laws in Fiji could apply to Rotuma regardless of the circumstances on the island and whether the inhabitants permit these laws or not.**

### **9. Part II – District Officer’s Court**

#### **Sections 5 – 11 Rotuma Act.**

These sections relate to the Rotuma Court of Justice or the District Officer’s Court. The DO, as a second class magistrate has the same jurisdiction in all civil and criminal suits and matters as the counterpart in Fiji.

9.1 The DO’s Court has been disbanded. The jurisdiction has been transferred to Suva.

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## **Summary**

The island of Rotuma is the ancestral homeland for the indigenous Rotumans. A journey home is the pilgrimage of a lifetime. It reminds Rotumans of our obligations and renews our commitment to protect and preserve our heritage,

Rotumans are indigenous people as enshrined in the Fiji Constitutions of 1970, 1990, 1997 and 2013. Our indigenous rights are acknowledged in the UN Declaration of the Rights of Indigenous Peoples and elaborated in the Vienna Declaration and Programme for Action, the UN Convention for Safeguarding Intangible Cultural Heritage, the ILO Indigenous and Tribal Peoples Convention, to name a few.

The fundamental theme of the Conventions and Declarations is the protection and preservation of indigenous cultural heritage and that **any laws enacted on behalf of indigenous people shall have the full participation and co-operation of the peoples affected.** The Fiji laws are in compliance and the Department of National Heritage, Culture and Arts is to be commended for its efforts to promote the Rotuman language and documentation of Rotuman Intellectual Properties for their preservation and protection.

### **Some Issues of Concern in Rotuma Bill no.6**

- a) **The Council of Rotuma loses its independence and influence. It could be disbanded.**

The Council meets **once** a year instead of at least 4 times a year. Membership is confined to chiefs (7 Chiefs and 7 sub-chiefs) with 2 members appointed by the Minister (political appointees). The Council loses the informative and valuable advice of the heads of government departments.

The Council's function of managing the **Rotuma Development Fund** and the **Rotuma Agricultural and Industrial Loan Fund** is delegated to the Forum. There is no social, economic and political responsibility for the Council. Instead, the Council is delegated traditional protocol and customs issues. This is deceptive because the same issues are discussed by the Forum if 4 of the 7 chiefs agree.

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- b) **As indigenous people, Rotumans could lose their rights to their ancestral homeland, heritage, customs and arts.**

The proposed definition of Rotuma takes away the rocks, reefs and fisheries lying between 12 ° - 15 ° south latitude and 175 ° - 180 ° east longitude from the meridian of Greenwich. The appointment and dismissal of chiefs differ significantly with Rotuman tradition and customary practices.

Any attempts to undermine the role of the Council will have a negative effect on the Rotuman society.

- c) **The “Independence” of the island of Rotuma is at stake.**

The transfer of the District Officer’s Court to Suva and the exclusion of section 3 which allows Fiji laws to be implemented in Rotuma ignores Rotuma’s annexation history. The Minister gets to make appointees to the Council and the Forum. The political appointments does not augur well for the island.

The proposed law is radical and ill-conceived and needs the full participation and co-operation of the Rotuman people.

- d) **The Rotuma Act (Cap 122) is repealed.**

The current provisions date back to 1927 which means that history will be lost.

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### **Some Issues of Concern in Rotuma Bill no.7**

- a) **The provisions on transmission of land do not comply with Rotuman tradition and custom.**

*Hanua ne kainaga* (clan land)

The registration on the paternal lineage is a legal right whereas registration on the maternal lineages is only permitted if male relatives on the island give their consent.

**Rotuman custom permits Rotumans to be registered on both the paternal and maternal lineages;**

Transmission of Land – *Hanua ne 'on tore*.

This transmission relates to individual land that is transmitted to the last surviving member of the 3<sup>rd</sup> generation from the original owner. The new owner acquires a *hanua pau* (freehold) **The proposed law changes the landholding type to *hanua togi* (purchased land)**

**The proposed law also prohibits the creation of new *hanua pau* which impinges on the custom of giving 'gift' or 'grant' to relatives.**

- b) **The *itaukei* social system is patrilineal against the Rotuman social system which is matrilineal.**

The Rotuman custom permits transmission of land, *hanue ne kainaga* (clan land) registration on both the paternal and maternal lineages. On the other hand, *itaukei* permits registration for transmission of land (*mataqali* land) on the paternal lineage only.

This is not to be confused with the registration in the PUK 'ES 'ON FAMOR ROTUMA on the paternal and maternal lineages. This latter registration doesn't automatically grant access rights to *hanue ne kainaga*.

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**c) The right of legally adopted children are withheld.**

This includes legal access to *hanua ne kainaga*. This is not in accord with custom which has always encouraged informal adoption to ensure that children are always cared for in the community. Adopted children enjoy similar rights as biological children.

**d) The proposed Land Use Commission provisions are mostly uplifted from the Rotuma Lands Act. It was rejected in 1959 and is re-introduced under a different format? Is this supposed to make the sections acceptable?**

- Ascertaining rightful property owners;
- Property surveys;
- Deciding on land disputes
- Appeals etc.

The land issues are entwined with customary and traditional practices and require extensive participation and co-operation of the people.

**e) The Rotuma Lands Act (Cap 138) is repealed.**

This means that the history of the current Act will be lost.

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## **Recommendation**

The **Rotuma Act** (Cap 122) and **Rotuma Lands Act** (Cap 138) have been in place since 1927 (89 years old) and 1959 (57 years old) respectively. The haste to enact new laws by repealing the current laws has no justification.

The Review Committee did not consult widely with the full co-operation of the Rotuman people. The Council of Rotuma, the Fiji Rotuma Association and the Rotuman people never endorsed the final draft of the Committee because it was not made available. This submission does not recommend mere amendments.

This joint submission has provided many reasons why the Rotuman community on the island and the Rotuman people elsewhere are unhappy with the proposed laws. As far as Rotumans are aware, the proposed laws are the work of a handful of Rotumans whose credibility amongst Rotumans to make such radical and sweeping changes are being questioned.

In as much as we want to adopt progressive changes to our laws, the fact remains that any changes must truly reflect our wishes and aspirations. We must allow for full participation and co-operation of the Rotuman people so that the laws give hope, peace and prosperity to our people and future generations.

**To conclude, it is our joint submission that this Standing Committee of Social Affairs recommend to Parliament that the Rotuma Bill no. 6 and Rotuma Bill no. 7 be withdrawn under Parliamentary Standing Order 90:**

*“The member in charge of a Bill may withdraw the Bill at any time before the Bill has been read a third time by leave of Parliament”*

The current laws are to remain in place until such time as the Rotuman people have deliberated on their future, without any outside pressure.

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### **References:**

1. Agnes Ferguson Hannah (2009), *Being Rotuman In Australia: Cultural Maintenance In Migration*.
  2. Annexation of Rotuma, 1880 document
  3. Carol Delaney (2010), renowned anthropologist in *Investing Culture: An Experimental Introduction to Anthropology*
  4. Constitutions of Fiji (1970,1990,1997,2013)
  5. Convention on the Elimination of Discrimination Against Women (CEDAW)
  6. Deed of Cession, Rotuma document
  7. Fiji Census of September, 2007.
  8. Bill no.6
  9. Bill no.7
  10. ILO, *CI69 – Indigenous and Tribal Peoples Convention of 1989*
  11. *Law of the Sea Bulletin #66 of 2008; Marine Spaces (Territorial Spaces) (Rotuma and its Dependencies) (Amendment) Order 2012* (United Nations Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs)
  12. Rotuma Act (Cap 122)
  13. Rotuma Lands Act (Cap 138)
  14. Submission templates uploaded on facebook.
  15. UN Declaration of the Rights of Indigenous Peoples (2007)
  16. UN Convention for Safeguarding Intangible Cultural Heritage
  17. Vienna Declaration and Programme Action
  18. *Rotuma on facebook* [www.facebook.com](http://www.facebook.com) and the *Rotuma website* [www.rotuma.net](http://www.rotuma.net) have numerous comments / threads on the Rotuma Bills.
  19. [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::p12100\\_instrument\\_id:312314](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312314) accessed on 19 November, 2016
  20. <http://worldmethodistcouncil.org/about/member-churches/australia-and-pacific/name/fiji-and-rotuma-methodist-church/> accessed on 22 November, 2016.
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  22. <https://en.wikipedia.org/wiki/Rotuma> accessed 26 November, 2016
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