



Old wine in a new bottle? Proposed sugar industry restructuring and land conflict in Fiji

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The proposed restructure of Fiji's sugar industry has the potential to change fundamentally the incentives facing stakeholders and their interaction. How well the stated objective of 'unity in purpose' is achieved will depend on whether the causes of the current land conflict are addressed and whether the established decision-making process can help build trust, transparency and accountability. Ultimately, the success of the proposed industry restructure may depend on the commitment of Fijian landowners and the Fijian administration to review the way returns are shared among stakeholders.

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The Fijian sugar industry is facing major challenges, including declining productivity, deteriorating transport and processing infrastructure, declining sugarcane quality, and declining sugar recovery rate (Sugar Commission of Fiji 1997). The roots of many of these problems can be found in past and current industry structure (Box 1).

These elements include an institutional arrangement based on a prescriptive Master Award and land leasing system which encouraged an adversarial relationship

among the stakeholders. Each stakeholder group—the mill workers' unions, transport workers' union, sugarcane growers' unions and associations and the landowners—is 'scrambling to secure "their fair share" of a crumbling and shrinking pie' (Sugar Industry Proposal 1999). The current structure includes a payment system which has little or no commercial basis and which does not provide incentives to reward those who work towards improving productivity and quality. According to the industry's own assessment,



it is too bureaucratic and legalistic (see Moynagh 1981; Lal 1992, 1997).

To address this apparent lack of unity of purpose among key stakeholders, the sugar industry has developed a proposal to provide key interest groups with a more effective stake in the operation of the industry. Essentially, the new structure is expected to provide incentives for stakeholders, in particular the landowners, the growers and the millers, to cooperate in developing the industry rather than compete over shrinking resources.

Origins of current land conflicts

Conflict over land is nothing new to Fiji. Tensions and disagreements over land go

back at least to the early days of European settlement in the 1800s. The origins of the present conflict, however, can be found in the indigenous land ownership and management system introduced in Fiji during the colonial era, in subsequent legislation, and in misperceptions and misinformation about leases, lease rents and the profitability of sugarcane farming.

The present land ownership and management system is a creation of the British colonial government under Sir Arthur Gordon (1875–80). To prevent alienation of Fijian land, the government legislated that custom-held land could not be bought or sold, even among Fijians themselves (France 1969). Although land was owned by individuals,

Box 1

Key elements of Fiji's sugar industry structure

- A single processing firm, the Fiji Sugar Corporation, operates four mills on the two main islands, Vanua Levu and Viti Levu.
- Rain-fed sugar sugarcane is grown mainly on small farms.
- Land is leased on terms and conditions stipulated in the Agricultural Landlord and Tenant's Act (ALTA).
- Most sugarcane is grown on land leased from indigenous Fijians who own 92 per cent of land that is inalienable.
- Leases are negotiated with the Native Land Trust Board acting as custodians on behalf of the traditional owners.
- Leases are issued by the Native Land Trust Board, often without landowner consent.
- The sugarcane payment system is based on sugarcane yield, not on the quality of sugarcane supplied to the mills.
- A prescriptive Master Award under the Sugar Industry Act 1984 which stipulates key industry activities including
 - planting and cultivation of sugarcane by registered growers
 - harvesting and delivery mode of sugarcane to the Fiji Sugar Corporation
 - sale and purchase of sugarcane under quota to the Fiji Sugar Corporation
 - establishment and incorporation of the sugarcane harvesting process
 - the manufacture, storage, marketing, delivery and sale of sugar and by-products
 - the sharing of the sugar price between the processor and growers and the manner and timing of sugarcane payments
 - the manner in which industry-related disputes can be settled by the Sugar Industry Tribunal.



families, clans or other higher levels of communal aggregation, ownership was highly flexible and dynamic and land often changed hands (Ward 1995). In an effort to simplify the colony's management, the colonial government created over time a highly rigid ownership system that entrenched non-alienation and vested ownership primarily in the *mataqali*.¹ Even today, this system sits uneasily with the Fijians and is partly responsible for the discontent among Fijian landowners about the use and management of their land (Rakai et al. 1995; Ravuvu 1983; Nayacakalou 1971).

Following European settlement, demands for productive land for expansion of various primary industries required the settlers to deal with individual landowners in areas remote from the main areas of settlement. A land tenure system was created whereby land could be leased for a 25-year period. However, European farmers had three main complaints: the 25-year leases were too short to justify major investments; the 1880 Ordinance did not allow landowners to pay compensation to the tenant when the land reverted to them; and the leasing process was daunting, involving personal approaches to the *mataqali* heads, applications to district heads and councils, and payment of 'bribes' (France 1969). In 1916, a Native Land Ordinance was passed which required all land to be leased by the government for a period of 25 years with the possibility of an extension for another 10 years. Under this Ordinance, Fijian landowners were required to pay compensation to the lessee for improvements in the case of non-renewal of the lease—a condition which Fijian landowners were unhappy about.

To bring a semblance of stability to the leasing of land and to minimise the transaction costs of dealing with individual *mataqalis*, as well as simplifying the process,

in 1940 the government created the monopoly Native Land Trust Board (NLTB) under the Native Land Trust Act (NLTA). The Act gave the NLTB sole control over custom-held land, and this facilitated dealings between the then major agriculturists—the Colonial Sugar Refinery (CSR) and Indian Fijian growers—and the indigenous owners. However, the NLTB is not obliged to consult with landowners about renewal or issuance of leases, a practice which continues to contribute to the conflict over land.

The NLTB issues and renews leases, collects rents, takes 25 per cent of the rent income for administration and pays heads of the land-owning units 22.5 per cent of the gross rent collected (Kamikamica and Davey 1988).² The rest is divided among the members of the land-owning units, who may number from a few hundred to more than 1,000. The returns to individual landowners thus vary considerably.

The powers of the NLTB were retained under the Agricultural Landlord and Tenant Act (ALTA) introduced in 1976 to rationalise the leasing of Crown, Native and Freehold land for agricultural purposes. Two main features of ALTA have been central to the conflict: the stipulated rental amount and the length of lease. The rental amount was fixed under ALTA at 6 per cent of the unimproved capital value (UCV), with a mandatory reassessment of the UCV every five years by a committee of valuers appointed by the government. Second, all leases granted under ALTA since 1 September 1977 were to be for a minimum of 30 years. The holders of leases granted before this date (the great majority of which were for a term of ten years under ALTA's predecessor the Agricultural Landlord and Tenant Ordinance) were entitled to a single extension of 20 years under ALTA. As a result a majority of the leases began to expire from 1997, with landowners generally unwilling to renew them.



Non-renewal of leases

Despite extensive dialogue between the then major political parties representing the two ethnic communities, the *Soqosoqo no Vakaulewani Taukei* (SVT) for the Fijians and the National Federation Party (NFP) representing the IndoFijians, not much progress was made. An ALTA Task Force was established, involving key representatives from the SVT and NFP, the NLTB and the Sugar Cane Growers Council, with the primary objective of resolving the land issue. The deadlock over ALTA could not be overcome, partly because of the extent of the disagreement between the two groups resulting from misunderstandings and incomplete information available to those involved.

Indian Fijians, who are the main lessees, and the Fiji sugar industry that depends on sugarcane farming on largely custom land, want the Government to retain ALTA.³ However, the NLTB in its response noted

[a]ny attempt by Government to implement this proposition will demonstrate Government's insensitivity towards the realities of the landowners and tenants particularly within the sugarcane belt, (and) the effects this will have on the sugar industry and Fiji's economy. We say this because, many more tenants will be subjected to eviction from the sugarcane belt as is the current practice (NLTB 1999).

Of the total 11,293 sugarcane leases formally recorded by NLTB, a total of 3,323 leases expired between 1997 and 2001. By the end of 2006 another 2,131 are expected to expire. The proportion of leases expiring by 2006 will be greater (almost 88 per cent) once the Crown Schedule A and B lands have been transferred to indigenous Fijians, following a recent government decision (Reddy and Lal 2002). So far over 70 per cent of the expired leases have not been reissued to existing tenants.

Reasons for non renewal

The reasons for non-renewal given by the landowners are several. Some are valid while others are based on misinformation or incomplete data. Four reasons commonly cited include

- landowners' desire to recover some of their land for use by the *mataqali* members
- a desire on the part of the landowners to participate in commercial agriculture
- inequitable sharing of the 'subsidy' received by Fiji under the various preferential market access arrangements
- past rents were too low and the necessity to charge a 'market rent' (higher rent) for their land.

The first two reasons are related, with landowners wanting to regain control of their land for subsistence or commercial uses.

Land needed for own use

Giving the NLTB sole responsibility over matters related to native land effectively took all control out of the hands of the landowners. This has been a major source of discontent among the landowners for two main, but related, reasons (Rakai et al. 1995). First, often the best pieces of their land are leased out under ALTA. Second, it is understandable that as indigenous Fijian aspirations change they, too, may wish to engage in commercial agriculture.

However, the requirements of each land-owning unit need to be carefully examined. Even where land is needed for their own use, it is unclear whether 100 per cent of the leased land needs to be repossessed, as apparently indicated by many land-owning units. An assessment of 'need' can be made in terms of the proportion of land currently not leased to total land owned by, or the size of, the land-owning unit. It is possible that some land-owning units, such as the Naduta and Savanaura (Nakama) land-owning unit in the Wailevu, leased 100 per cent of their



arable land (Lal and Rita 2003). In some cases, although the majority of the land may have been leased, the need for land to revert back to the land-owning units may not be as acute as has been implied, because the rural population is declining, with many more Fijians residing in urban areas.

A desire to enter sugarcane farming is also often given as the reason for the landowners not wanting to renew the leases. This is understandable, as the sugar industry is the source of the largest commodity export income for Fiji. During the period 1997–99, 74 per cent of the expired leases were either issued to members of *mataqali*, or put in reserve; that is, only 26 per cent of the expired leases were renewed. This may reflect a desire on the part of indigenous Fijians to take up sugarcane farming. These statistics, however, need to be considered cautiously because the number of leases issued to members of the land-owning units may reflect to some extent the effect of the government's policy to grant F\$10,000 to every Fijian who took up sugarcane farming. The grant amount is greater than the total rent that some landowners could expect to receive in their lifetime, as the following quote from the head of the NLTB, Maika Qarikau,⁴ indicates

...imagine if all your land is leased by other people who are receiving some F\$10,000 gross income and you get only, say, about F\$250 as your gross income from that lease. And you have to share that with the NLTB which deducts 30 per cent and then 5 per cent goes to the Turanga-ni-Taukei, 10 per cent goes to Turaqa-ni-Yavusa, 15 per cent to the Turaga-ni-Mataqali, you are left with peanuts (*Fiji Times*, 9 August 1997:7).

There have been reports of Fijians registering an interest in sugarcane farming (*Fiji Post*, 23 November 2000), only to receive the grant and not to enter sugarcane farming.

In some cases, previously productive sugarcane fields now leased to members of land-owning units have been allowed to revert to bush. The extent of this is not known.

Inequitable sharing of subsidies

Another major reason given for not renewing leases is the Fijian landowners' concern that they have not received any direct benefit from the subsidy received from the European Union. This sentiment is summarised by the then Interim Prime Minister, Laidenia Qarase.

The tenants have benefited greatly from their leased native land. For example, in the period of the Lome Convention between the European Union and the African, Caribbean and Pacific countries, from 1975 to 1999, total earnings of Fiji from its sugar exports to the European Union under the Convention's Sugar Protocol were estimated at F\$3.5 billion. About half of this comprised premium from the high EU sugar prices compared to world free market sugar prices. In the sugar industry in Fiji, this F\$3.5 billion is shared 30 per cent to the millers, Fiji Sugar Corporation, and 70 per cent to the farmers, more than 75 per cent of whom are tenants of Fijian-owned land. But not a bit of that windfall F\$3.5 billion is shared directly [with] the Fijian landowners (Qarase 2000).

It is true that the Fijian landowners have not directly received a share of the European Union subsidy. It is, however, likely that they would not have been able to obtain the current level of rent had the industry not received the higher prices for sugar. The rent is a function of the present value of the expected net returns from the use of the land (Barlowe 1972). ALTA restricts the rental amount that can be levied to 6 per cent of the unimproved capital value (UCV). The UCV is supposed to reflect the potential



agricultural productivity of the land and the 'purpose for which the land is issued and not the actual use of the land or any other purpose for which the land could be used' (ALTA S21(3)). The UCV has been revised upwards three times since the first valuation in 1977, with the most recent revision in 1997 (Table 1). Although the rent has remained at 6 per cent of UCV, the rental amount paid has increased in both nominal and real terms (Lal et al. 2001a).

Without the high sugar prices, the 'market value' and the UCV, of sugarcane land would have been much lower than what it is currently and the landowners would have received even much lower rental amounts. Government revenue has also been increased by the preferential sugar prices through the taxes collected, in particular the 3 per cent export tax.⁵

Low rent

Members of some landowning units are correct in saying that the rental amount received is small. Nationally, on average about 3.4 per cent of the gross value of sugarcane has been paid in rent. The rent may be thought of as low in two senses. First, the amount received is low because of the biophysical characteristics of land in Fiji.

Less than one per cent of land is categorised as Class I land, producing 85 tonnes per hectare or more. Under ALTA, lessees would have paid rent of F\$480 per hectare for such land. Over 90 per cent of land under sugarcane is poor to marginal (Classes III and IV), producing less than 50 tonnes per hectare. For such land, a rental amount of F\$45–150 per hectare is paid. The weighted average annual rent is estimated at F\$92 per hectare (Lal et al. 2001a).

Second, rent per member is low because members of a land-owning unit receive only about 48 per cent of the rent (on average, F\$44 per hectare) collected and this amount is divided among all adults over the age of 18. The amount of rent received by individual members, however, varies considerably, depending on the size of the land-owning unit, the productivity class of their land, the proportion of total area of land leased out and the percentage deducted for the different chiefs (Lal et al. 2002). Income per member varies widely, and can range from F\$2 to F\$3,879.⁶

Is the rent low by international standards?

The answer to this question depends on which land is considered and which market is used for comparison. On average the current UCV-based rent is equivalent to 10.6

Table 1 **Nominal unimproved capital value per hectare for sugarcane growing areas in Fiji, 1977–97 (F\$)**

| Land classification | 1977 | 1987 | 1992 | 1997 |
|---------------------|---------|-------------|-------|-------|
| First class | 500–900 | 2,700–4,500 | 6,500 | 8,000 |
| Second class | 200–500 | 1,650–2,700 | 4,500 | 5,000 |
| Third class | 85–200 | 1,100–1,650 | 2,000 | 2,500 |
| Marginal class | 50–100 | 300–1,250 | 750 | 900 |

Note: Although land in different regions has different UCV estimates and usually a range of estimates was reported in the local gazette, since 1992 the lower bound of UCV estimates rather than a range has been reported.
Source: Lal, P.N., Lim-Applegate, H. and Reddy, M., 2001a. 'Land tenure dilemma in Fiji—can Fijian landowners and Indo-Fijian tenants have their cake and eat it too?', *Pacific Economic Bulletin*, 16(2):106–19.



per cent of the gross value of product for Class I land and 2.9 per cent for marginal land (Lal et al. 2001a). These estimates do not include goodwill payments, New Lease Consideration (NLC) fees, or premiums charged by the NLTB and/or the landowners.⁷ Total rent received (UCV-based rent plus the annualised goodwill payment) is estimated as equivalent to an annual 14 per cent of gross value of product (GVP) for Class I land; where GVP is equal to price times the average yield. The total rental equivalent is estimated at 10 per cent for marginal land.

These rents are within the range of rental amounts charged in other countries. Since joining the European Union, the rent paid in the United Kingdom has been 10–15 per cent of GVP (Ravenscroft et al. 1999). In Queensland the rent charged is 10 per cent of GVP. Although there is no universally agreed 'fair' rent for agricultural land, the annual rent paid in Fiji plus annualised goodwill payments is consistent with these payments in other countries.

Is there money to be made from sugarcane farming?

One of the sources of tension is the perception that sugarcane growers are making a lot of money (Qarase 2000). Is there a lot of money to be made in sugarcane farming?

The average net return (as compared with gross income) per household from sugarcane farming is F\$842 per hectare or about F\$3,500 in total. This estimate is based on census data on sugarcane harvested and transported to the Fiji Sugar Corporation, the sugarcane prices received by growers, and average cost data provided by Fiji Sugar Corporation (personal communication 2001). But for 92 per cent of growers, those who produce 50 tonnes per hectare or less, the household net income is F\$2,000; while in sectors such as Wainikoro, net income is negative if family labour is taken into

account. In some cases, farmers are even making a loss (assuming the average cost data provided by the Fiji Sugar Corporation is applicable to the Wainikoro sector). These averages are below the national per capita GDP, which was recorded at F\$3,889 for 2000. On the other hand, for growers on Class I land, their household income from sugarcane averages about F\$7,000 per annum (Lal et al. 2001a).

As a comparison, a 1997 UNDP study on poverty in Fiji suggests that rural people earning less than F\$100 a week are considered to be below the poverty line (Government of Fiji and UNDP 1999). By that criterion some 90 per cent of the sugarcane growers would be considered to be in poverty. However, sugarcane growing is not always the only source of household income, particularly not around the urban areas.

Nationally, the average income disparity between the two major ethnic groups is small, according to UNDP (1999) and income inequality is greater within each ethnic group than between groups.

While overall, Fijian households have the lowest incomes and 'others' have the highest, the lower-income Indo-Fijian households are worse off than lower-income Fijian households. Low-income 'others' in rural areas are the worst off of all. There are more Indo-Fijian households in the very poorest section of society, numbering just over half of all-poor households. They have an average income 14 per cent lower than Fijian households. In the highest bracket, the average income of Indo-Fijian households is 42 per cent higher than high-income Fijian households. Fijians predominate in the middle income groups. Fijians in urban areas are relatively the best off. Poverty is in all communities, not just particular ethnic groups or sections of the society (Government of Fiji and UNDP 1999:Ch 5).



Renewal of leases

The general belief in the Fijian community is that the root cause of low rents is the terms and conditions of leases issued under the ALTA. It is because of such perceptions that the NLTB and the Qarase government have nominally rejected ALTA. In rejecting it, the NLTB reiterated that the existing Native Land Trust Act (NLTA) apply and rental rates are determined by NLTB based on market conditions. The specific recommendations of the NLTB are listed in Appendix 1.

According to the NLTB, leasing under NLTA would give landowners greater flexibility to charge a more 'market-based' rent (see Table 2 for institutional differences

between leases granted under the two pieces of legislation). 'Market rent' in the NLTA is defined as 'the annual rent that might reasonably be expected to be let in the open market by a willing lessor to a willing lessee'. However, the term 'market rent' has often been used to imply higher rents (that is, higher than what is currently received or has been received in the past). This is evident from the demand for—in some cases exorbitant—goodwill payments for short-term leases. Goodwill payments have ranged from F\$2,000 to F\$22,000 per lease, a figure which seems to have no bearing on the productivity of those lands or the size of the leased area (Lal et al. 2001a). Thus, one could argue that the reason why NLTA is preferred

Table 2 Differences in institutional arrangements under ALTA and NLTA

| Terms and conditions | ALTA | Proposed under NLTA |
|----------------------------|---|--|
| Lease tenure | Minimum 30 years (<i>de facto</i> maximum) | Rolling 5, 10, 15, 20, and 30 years |
| Basis of rent fixation | 6 per cent unimproved capital value (UCV) | Market rent and a percentage of production |
| Renewability | Non-renewable beyond 30 year maximum/minimum | Renewable subject to NLTB's consent. Recently proposed to be renewable with additional goodwill payment to NLTB as well as to the landowners. |
| At expiry—compensation | Value of improvements payable by landowners if approved by NLTB | Compensation to be paid for by the government |
| Choice of land utilisation | Tenant | Stipulated in ALTA |
| Subletting/sharecropping | Illegal, although common | Possible, but with NLTB's permission |
| Settlement of disputes | By the Agricultural Tribunal | By an Independent Arbitration; a Land Court has recently been proposed. |

Source: Lal, P.N., Lim-Applegate, H. and Reddy, M. 2001a. 'Land tenure dilemma in Fiji—can Fijian landowners and Indo-Fijian tenants have their cake and eat it too?', *Pacific Economic Bulletin*, 16(2):106–19.



to ALTA is that there is greater scope to extract rents that are higher than 'market rent' under ALTA, that is, monopoly rent.

Even if land were issued under NLTA and higher rents were charged, the issue of the 'low rent' received by members of certain land-owning units cannot be resolved, given the communal land-ownership system, the proportion of rent deducted by the NLTB, and the amounts claimed by different chiefs. Even if the amount of rent were to be doubled or increased ten-fold, the share received per member would still be very small because the rental income would be divided among all individuals over the age of 18 registered in the land-owning unit.

To the growers and the Fiji Sugar Corporation, NLTA is not acceptable because of the key conditions, many uncertainties and limited protection. In their submission, the industry suggested that for the industry to survive and prosper, lessees need longer term leases with reasonable rentals; require reasonable advance notice periods before the expiry of their tenancy; require protection by legislation against unreasonable rental increases and other charges; and require fair compensation for improvements upon expiry of a lease (Sugar Commission of Fiji 1999).

In many instances, the NLTB was willing to offer residential leases but not leases over farming land. This offer was rejected by some growers in the hope of receiving the F\$28,000 cash grant then on offer by the Chaudhary Government. While the offer produced considerable kudos for the People's Coalition Government, not many people actually received the money because the assessment of applications itself became highly politicised.

During the period 1997 to 2001, a total of 3,323 leases expired, of which only 883 were reissued to sitting tenants as sugarcane land.⁸ Residential leases on smaller pieces of land accounted for a further 174 leases granted to sitting tenants. The remainder

reverted to landowners for their own use or the leases were issued to indigenous Fijian tenants (Table 3).

Prospects for future lease renewals are uncertain. Nor is it known how many ex-tenants have entered into informal *vakavanua* arrangements on land returned to the landowners or placed in reserve. Terms and conditions for *vakavanua* leases are directly negotiated with the landowners and the rent is paid directly to them, thus bypassing the NLTB. The extent of *vakavanua* leasing is not known since the NLTB does not keep records of this activity (personal communication, March 2002). Records of the Fiji Sugar Corporation prior to 1997 suggest that on average between 1993 and 1996, 5 per cent of all sugarcane land was under *vakavanua* lease. Today the proportion could be more significant if earlier experience is any indication. In 1988 about 72 per cent of tobacco-growing land was recorded to be under the *vakavanua* system (Eaton 1988).

In the sugarcane belt area there are thus three different types of leases and four different forms of agreement (Table 4) issued by the NLTB, as well as *vakavanua*.

Perceptions and reality

This discussion highlights the differences between fact, perceptions and fiction. It is possible that much of the conflict over land has arisen because of the differences in perceptions between the two ethnic communities, not to mention political differences. To reduce the scope of the seemingly escalating conflict over land experienced elsewhere in the world, it has been suggested that sharing of information, convergence of understanding, and identification and development of collaborative solutions are essential. It is important to create an 'awareness of interdependence' among stakeholders as well as a 'unity of purpose...if conflict is to be overcome' (Buckles and Rusnak 2000:5).



Table 3 Number of expired leases reissued to sitting tenants for sugarcane and residential uses

| Expiry year | Expired sugarcane leases | New sugarcane leases issued | New residential leases issued |
|-------------|--------------------------|-----------------------------|-------------------------------|
| 1997 | 72 | 67 (36) | 23 (8) |
| 1998 | 157 | 152 (45) | 61 (7) |
| 1999 | 1,073 | 861 (350) | 297 (83) |
| 2000 | 1,708 | 780 (311) | 132 (26) |
| 2001 | 313 | 155 (141) | 15 (50) |
| Total | 3,323 | 2,015 (883) | 297 (174) |

Note: Figures in parentheses are for leases issued to sitting tenants.

Source: NLTB data supplied to the sugar industry, 15 March 2002.

Industry restructure

The key intention behind the proposed industry restructure is to provide a unifying mechanism among the stakeholder groups—the growers, landowners and the mill workers—to encourage the desired ‘unity of purpose’. This, it is hoped, will ensure that decisions made by them will be based on commercial considerations and for the common good, not just in their respective interests. The goals driving the proposal include

- long-term business sustainability based on world’s best practice
- market-based commercial relationships among all stakeholders and suppliers of inputs and services
- maximising returns to shareholders.

To encourage unity of purpose, the company currently operating the four mills—Lautoka, Labasa, Penang and Raviravi—is to be split into four separate companies established around each sugar mill. The government is to buy out existing company shareholders and to transfer all assets to the new companies free of charge. Each stakeholder group around each mill catchment area will have a share in the

company. The suggestion is to grandfather the current stakeholders, growers, landowners and mill workers, and to provide them with free shares in the company. The ‘ownership’ is to be shared among the key stakeholder groups, with the growers to receive 65–75 per cent, the landowners 5–10 per cent, mill employees 5–10 per cent, and the rest to the government, whose shares would be phased out in the long run and distributed among the other stakeholders.

The argument put forward by the industry at the meeting in Seqaqa sector (7 February 2002), is that a stakeholder-based company would ensure that the shareholders will have the common goal of maximising returns on their respective shares, thus increasing the profitability of the industry. Each stakeholder will, they argue, also try to increase the cost effectiveness of their own activities or services along the production chain.

Under this proposal stakeholders, particularly the landowners and growers, are expected to have financial incentives to ensure the sugar industry prospers, and not just be concerned about receiving a ‘fair’ return on their inputs. Experience elsewhere suggests that this is not likely to happen if the fundamental causes of the current



conflict over land—arising from perceptions of unfair distribution of benefits from the sugar industry—are not addressed as the new institutional structure is negotiated.

Stakeholder capitalism

A stakeholder-based company is built on the philosophy of stakeholding, which is about creating a change in culture, and 'changing the way people think' (Darling 1997:16) about each other, about their respective interests and their joint interests. It is built on a culture of 'constructive ownership'. The stakeholder approach includes a commitment to

- a partnership between stakeholders who have obligations as well as rights
- a framework of reciprocal rights, which generates expectations that each side will seek to advance the interests of the other
- building long-term, cooperative relationships based on mutual trust
- a view that stakeholders are not mere sources of factors of production but are

genuine partners in the venture, pursuing a common goal

- a common goal of maximising not only company profits but also the welfare of each stakeholder group (Parkinson 1997; Hutton 1997).

Industry restructure and creation of mutual trust

The central challenge in Fiji is thus to design a new industry structure which provides sufficient property rights (decision rights) for each stakeholder group such that they have appropriate incentives to work towards a common good without losing out on efficiency. Trust and long-term relationships cannot be legislated, nor can they be built when there are differences in perceptions and beliefs, as is currently the case between landowners and sugarcane growers and between the two ethnic groups (Williamson 1997). At the core of landowners' concerns is the feeling that tenants have become rich at their expense. Although the facts suggest otherwise, nonetheless the perception of unfairness exists and it must be addressed.

Table 4 Proportion of ALTA and non-ALTA leases^a issued under different agreement types (excluding *vakavanua* leases)

| | Agricultural non-ALTA leases | ALTA | Reserve | Total (per cent) |
|----------------------------|------------------------------|-------|---------|---------------------|
| Registered lease | 26 | 2,671 | 41 | 24 |
| Tenancy at will | 73 | 26 | 45 | 1 |
| Instrument of tenancy | 23 | 4,006 | 18 | 36 |
| Agreement for lease | 47 | 38 | 1,230 | 12 |
| Memorandum of lease | 33 | 2,825 | 186 | 27 |
| Unspecified | 1 | 2 | 2 | 0.04 |
| Total number of leases | 203 | 9,568 | 1,522 | 11,293 ^b |
| Percentage of total leases | 2 | 85 | 13 | 100 |

^a Expired and current leases in the NLTB database of March 2002. In some cases, people with expired leases would have obtained residential leases which are not included above.

^b This figure is the total number of leases.

Source: Native Land Trust Board data (personal communication, 13 March 2002).



To overcome such perceptions, at least two main issues need to be resolved as far as the landowners and growers are concerned: the initial distribution of shares among stakeholders, and the negotiation of the land lease and 'market' rent system. Furthermore, a decision-making system needs to be put in place which will create a forum that can help build trust rather than conflict.

Distribution of shares between landowners and growers

Distribution of new entitlements without any costs to the stakeholders is an equity not an economic issue. There are many different ways new 'ownership' rights can be distributed: for example, they can be auctioned, grandfathered, issued on a 'first-come, first-served' basis, or allocated by lottery. Different mechanisms have different distributional implications and imply potentially different levels of transactions costs (Cullen 1985). An auctioning system is appropriate if efficiency is the main issue as it ensures that those best able to use the rights will hold them. Auctioning, however, could result in inequitable distribution of shares, particularly to Indian Fijian growers, who are more likely to be able to afford to bid for the shares. 'First-come, first-served' and allocation by lottery may be used in situations where the new right is to a one-off event and the demand is not large relative to supply; if the demand is high then the transaction cost could be significant, particularly when growers and the land owners are geographically dispersed. Where prior rights or some entitlements already exist, grandfathering would be perceived as equitable. Since equity is the main issue in the Fiji sugar industry, grandfathering of existing stakeholder groups would thus appear most acceptable and cost effective; grandfathering may, however, not be acceptable to those who are not in the industry and thus would not gain from the new rights.

Allocation of rights can influence what the different stakeholder groups 'feel' about each other and the company. Equal ownership in a company by the key stakeholder groups could give a sense of equal partnership (between groups) and could be critical if the current perception of inequity is to be overcome. This would mean that of the total number of shares created for each mill area company, each stakeholder group—growers, mill workers and landowners—would be assigned an equal proportion of shares, not highly unequal shares as currently proposed.

Each member of a stakeholder group could then be assigned an equal share in their stakeholder group share. It is noted, that through grandfathering of groups, equity at the group level may be achieved, but not necessarily equity between members within groups of different sizes.

Published theoretical literature on practical experiences with stakeholder-based companies are limited. Experience with employee share schemes and employee share ownership plans in the United Kingdom suggests that the success of stakeholder-based companies depends on members' 'sense of ownership' (Pendleton 1997:176). Economic success would ultimately depend on the efficiency gains this sense of ownership generates, and by the extent to which stakeholders feel they have an effective say in decision making. This would suggest that each stakeholder group should have equal representation on the decision-making board of the company. While this issue of board representation has not yet been tackled by the Fiji sugar industry, it is important that any new institutional arrangement in Fiji adequately addresses it.

As equity among the groups is one of the key issues in the industry, the overall stake in the company would, however, need to remain the same for each stakeholder group, at least in the short to medium term. This



would mean that the company profits would be initially divided three ways in equal proportion and group shares would remain constant. In the long run it is possible that landowners may increase their proportion of shares as they purchase largely Indian Fijian shares and become directly involved in sugarcane farming.

Within each stakeholder group, the group dividend would be divided among its members according to an agreed formula. A system for sharing dividends among members would still need to be negotiated even if the industry decides to divide the shares using the formula under the proposed restructure.

Ideally for the landowners, the dividend would be divided among the land-owning units according to their proportion of land of different quality leased in the mill area. To determine the proportion of land of different qualities, the industry could use the land quality database currently being developed. Alternatively, the dividend could be divided in proportion to the rent received for their land, but only if a more market-oriented rental system is put in place. Such a system would provide an appropriate incentive to the land-owning units, assuming they were consulted by the NLTB, to increase their holdings of good quality land.

Individual dividends within a land-owning unit will vary with time as changes occur in the membership of the group due to births, deaths and the number of individuals reaching 18. Such changes are recorded in the *Vola ni Kawa Bula* maintained by the Fijian Affairs Board. With increases in the indigenous Fijian population, it is likely that returns to individual landowners will decline over time, unless there is a more rapid increase in the profitability of the industry. Given recent industry performance, and the expected loss in preferential access, the latter is highly unlikely to occur in the short to medium term, with or without industry restructure.

Similarly, to provide the appropriate incentive to the growers, the dividend would

ideally be divided among growers according to their share of total sugar produced in their mill area. Thus, the higher the individual sugar output from their sugarcane, the larger the share of grower dividend. This can occur if the industry adopts a system of sugarcane quality payment and records the amount of sugar, as compared with the quantity of sugarcane, produced by each grower.⁹ If the industry retains sugarcane payment on weight rather than quality of sugarcane delivered, a second-best option would be to divide the dividend according to quantity of sugarcane delivered.

Furthermore, for efficiency reasons, grower entitlements need to be divisible and transferable, allowing membership of the grower-group to change. To achieve this, an institutional arrangement would need to be put in place which would allow for the transfer of individual entitlements as growers sell their supply contracts and exit the industry. Similar transferability of land-owning unit entitlements is also critical, if land-owning units are to be allowed flexibility in their decisions about the leasing of land for sugarcane farming.

In the case of the mill workers, where no such unit of input can be readily determined, or costs effectively monitored, the dividend could be shared equally. When a mill worker leaves the industry, essentially his/ her share in the industry ceases, though the group share remains intact.

In conclusion, the proposed stakeholder-based company arrangement could help create a sense of fairness among the stakeholder groups as well as provide appropriate incentives, increasing industry efficiency, provided related institutional issues are also addressed.

Negotiation of land leases and rents

If a stable, long-term relationship is to be developed between landowners and growers within each mill catchment area, a market-



based, land leasing system is required. The industry recognises the need for this. In their restructure proposal, the industry asks the landowners to 'support [and introduce] commercially based contractual arrangements which reflect the land tenure and investment requirements of the industry' (Sugar Commission of Fiji 1999:7). A commercially based system would closely reflect market supply and demand of land.

Under competitive market conditions, land rent reflects the net returns expected from its best use, as well as risks and uncertainties. Therefore, the more productive the land, the more valuable the crop, the lower the costs, and the lower the uncertainties, the higher the expected net returns. The higher the expected (mathematically)¹⁰ net returns, the greater should be the land price and thus the greater the annual rental value. The rental value of land thus should reflect what the tenants are willing to pay (Barlowe 1972; Pagiola 1999).

However, in Fiji, a market price for custom-owned land cannot be observed because land cannot be bought or sold. Second, a competitive market for land leases is also not possible because native land is leased by the custodian for Fijian land, the NLTB. Land-owning units are not free to negotiate leases of their land. In the past the NLTB has also not consulted the land-owning units before issuing leases on their land (see Lal et al. 2001a). The NLTB is thus a monopolist, able to restrict the supply of land and extract monopoly rents.

As a second-best option, some institutional mechanism, other than the current UCV-based system, needs to be developed that allows land rent to change with changing market conditions of the crops grown. Given the level of discontentment over the UCV-based rental amounts, and the demand by the NLTB and the landowners for a market rent, a rental system is needed which can simulate market conditions and

rental amount that reflects expected net returns—including restricting the monopoly position of the NLTB.

To move closer to a market condition where landowners and tenants can negotiate a market rent, one option is for land leases to be negotiated separately for each mill area, allowing for the greatest degree of flexibility in the types of lease available. Different models have been suggested, including the Sugar Cane Growers' Council representing the growers negotiating with the NLTB, representing the land-owning units; and the stakeholder-based company taking a head lease and issuing a supply contract to growers.

The rental formulae negotiated in each area will depend on whether landowners and growers are risk averse, risk neutral or risk takers. In an uncertain environment, risk-averse tenants would be prepared to forgo income for more secure average returns. Risk-averse landowners may feel better off under a fixed lease since they will not be exposed to risks (see Lal et al. 2001a).

For commercially-based rent options which are more responsive to market forces—instead of fixing rent, land rent should closely reflect the expected returns net of all costs, including returns to management. This would mean that not only information about gross value of output should be known but also the costs of production, harvest and transport (if transport costs are to be borne by the growers). While the value of output, rail transport and harvest costs can be estimated with certainty because census data on these factors are collected by the Fiji Sugar Corporation, reliable production cost estimates are currently not available.

In the short run, a second-best option could include the landowners receiving a fixed percentage of the gross value of product (GVP). This figure would need to be negotiated between the landowners and the



growers. Current average land rents, taking into account goodwill payments, are equivalent to 16–20 per cent of the GVP, when internationally land rent is in the vicinity of 10–14 per cent of GVP (Lal et al. 2001a). Alternatively, sharecropping may be another option. However, as noted by Heady (1971) and Reid (1976), for sharecropping to be efficient there needs to be an equal distribution of rewards and costs as well as risks. They also note that for efficiency it does not matter what the share ratio between growers and landowners is—what matters is that the returns and costs are shared in the same proportion. Transaction cost of negotiation and monitoring of tenant activity in sharecropping should also be low.

Sharecropping has not been considered as a serious option, partly perhaps because of its bad reputation of exploitation by landowners and growers. To avoid exploitation of the landowners or the growers (Otsuka et al. 1992) and a loss in efficiency (see Shaban 1987; Binswanger et al. 1993), the government could institute a system clearly defining the parameters within which sharecropping arrangements can be negotiated thus protecting both tenants and landowners.

Similar risk issues are also a concern in the current land leasing system whereby the NLTB, and not the land-owning units, enter into leasing agreements. Many economists, such as Kasper (2001), have argued for the decorporatisation of the NLTB, allowing leasing to occur through a competitive market situation. However, a recent economic survey of the growers suggests that this will not work, at least in the short-to-medium term. Growers indicated their preference for leasing land through the NLTB, because of their fear of land-owning unit members changing their minds. Growers are also concerned that if they deal directly with landowners, there will be demands by different members of land-owning units for

ongoing additional payments (Lal and Reddy 2003).

To avoid this kind of 'sovereign' risk, and to minimise transaction costs of negotiation, the industry has also suggested that each mill area company could negotiate with the NLTB representatives of the mill area land-owning units, and enter into a single land-lease contract directly with the NLTB. This will not necessarily resolve the issue of arriving at market rent unless of course the land owners are directly consulted by the NLTB, or are directly part of the negotiating team. The rental amount would still need to reflect the marginal value of land in the sugarcane production.

The advantage of this approach is that land lease negotiations can be carried out as a commercial transaction and land is seen as a factor of production of the final commodity, sugar, and not as the political football that it has been in the past. By allowing individual mill areas to negotiate their own separate leases, and the landowners being present during the negotiations, both parties, the landowners and the company, will be in a better position to take into account the local supply and demand of land as well opportunity cost of sugarcane growing land. Furthermore, since landowners would be stakeholders in the company, they will take into account in their negotiations their share of the expected returns from company profit, as well as their opportunity cost of not leasing land for sugarcane farming.

The company would then be in a position to enter into supply contracts with the growers on terms and conditions that would promote efficiency in the production sector, including land rent reflecting the value of marginal product. To determine rent, a detailed production cost and production economic model will be required, or the rental amount could be based on a percentage of the gross value of product as mentioned previously.



Alternatively, the Sugar Cane Grower's Council could negotiate on behalf of growers with the NLTB, together with the participation of their respective local area representatives. Once again the transaction costs could be minimised. However, the Sugar Cane Grower's Council will not only face similar problems to the company negotiating with the NLTB, the council model has an additional difficulty. Since the majority of the growers are Indofijians and the landowners are Fijians, there is a danger that ethnic politics may once again dominate land debate. This possibility can, however, be minimised over time if trust and a stable long-term relationship can be encouraged through the new stakeholder-based company structure.

Regardless of which negotiation model is adopted, efficiency in the sugarcane production is unlikely to be realised unless growers are able to negotiate separate leases for their home sites. A separate lease for the home site can encourage growers with better alternative sources of livelihood to sell their supply contracts and exit the industry without putting their homes at risk. This provides a less political environment for negotiation with the emotional factor of losing the home sites removed.

Recently, the NLTB has started to identify residential sites within an agricultural lease and charging separate rents for them. Once the fear of growers losing their house site is removed, the Sugar Cane Grower's Council and the NLTB can negotiate agricultural lease rentals considering key factors related to sugarcane farming.

An arrangement that encourages sharing of information can also increase transparency and help build trust between the landowners and the growers.

Building trust

Experience in many developing countries, such as Papua New Guinea (Jones and

McGavin 2001), Indonesia (Fisher 1995), Costa Rica (Weitzner and Borras 2000) and Honduras (Chenier, Sherwood and Robertson 2000) suggests that developing a dialogue between stakeholders is essential if collaboration and peaceful resource use and management are to be achieved. Only through a process that encourages stakeholder groups to come together, critically assess the underlying sources of concerns and share information can a common understanding and an awareness of interdependence be achieved.

Therefore, key stakeholders need to be provided with a detailed analysis of the key issues, perceptions and/or misconceptions from the point of view of the landowners and growers at the local level. Analysis could be provided and synthesised at the appropriate unit of aggregation—growers, land-owning units, or mill catchment area—and presented to the stakeholders in a user-friendly form. Specific computer tools and techniques, such as computer models, decision-support systems and Geographical Information Systems (GIS) are available now which can help provide detailed objective and integrated analysis of data available from the NLTB, the Fiji Sugar Corporation and the Ministry of Agriculture, Sugar and Land Resettlement. The challenge is to use these, validate and harmonise the different data sets and integrate them in a manner that allows them to be used by all the key stakeholders to collectively make informed decisions (see Lal et al. 2002).

A decision-support system (Lal et al. 2001b) is currently being developed as part of an interdisciplinary project supported by the Australian Centre for International Agricultural Research linking the different databases and analytical modules.

Through an objective assessment of alternatives, and a commitment to the stakeholding philosophy, stakeholders within each mill catchment can arrive at a solution in their collective interests, and



within the legislative guidelines protecting the interests of growers and landowners. The negotiation process will require some compromise, while recognising that stakeholder-based industry is about 'equality of opportunity' and 'not equality of income' (Kelly, Kelly and Gamble 1997:243).

Conclusion

While conflict over land in Fiji is not new, it has escalated in recent years in part because of the differences in perceptions, wants and needs of the two ethnic communities, indigenous Fijians and Indian Fijians, fueled by the use of incomplete information and misinformation, as well as political expediency. If the conflict is to be reduced, the proposed industry structure aimed at creating a 'unity of purpose' is a necessary first step. A long-term relationship between the stakeholders based on mutual trust must be established.

Trust cannot be legislated. It can develop only when there is effective communication, a shared understanding of the problems from the point of view of all stakeholders, an understanding of their different interests and a sense of who is affected by, and who can influence, the use of the resource. An equitable and collaborative decision-making process involving relevant stakeholders, with the help of objective analysis using the best information available could assist enormously.

For stakeholding to work towards achieving a sense of 'unity of purpose', a change in culture is required. Stakeholders need to understand that with stakeholding comes both rights and obligations and that it is a two-way relationship of interdependence between the growers and the landowners. As Ratu Sukuna aptly noted in 1936,

[we] cannot in these days adopt an attitude that will conflict with the

welfare of those who, like us, wish to live peacefully and increase the wealth of the Colony. We are doing our part here and so are they. We want to live; they do the same. You should realise that money causes a close inter-relationship of interests. If other communities are poor, we too remain poor. If they prosper, we also prosper. But if we obstruct other people without reason from using our lands, following laggards there will be no prosperity (Lal 1992:101).

The success of the stakeholder company will depend on whether there is a commitment on the part of the Fijian landowners and the Fijian administration to review the way rental income and future returns from the stakeholder-based company are shared among the members of the land-owning unit, the respective chiefs, and the NLTB.

Ultimately, however, the long-term success of the stakeholder companies will depend on the viability of sugarcane farming in a competitive world sugar market, and on whether Fiji is able to introduce a lease rental system that is considered to be fair and equitable and market based. Ideally, what is required is a system where farmers can freely negotiate leasing arrangements with the landowners. However, in the absence of a competitive land lease market, the challenge is to design an institutional system in which the land rent reflects the marginal value of product in sugarcane farming and that minimises the prospect of monopoly rent being extracted by the NLTB.

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Appendix 1

NLTB recommendations to government

- Government, political party leaders and all other stakeholders should explicitly and publicly acknowledge that native land (including Crown Schedule A and B lands) is the exclusive property of the Fijian landowners and accordingly the NLTB in consultation with the landowners alone should have the right to determine when, how or if their land is to be leased.
- Government, political party leaders and all other stakeholders should explicitly and publicly acknowledge the debt owed by both the Nation and the tenant communities to the landowners for their sacrifice in having surrendered the use of their land under ALTO and ALTA at less than commercial rates of returns and further publicly acknowledge the right of the landowners to receive a fair and commercially determined rate of return on lands they will allow for leasing.
- Government should expeditiously put in place amendments to the current provisions of ALTA to allow new agricultural leases over native land to be outside the ambit of ALTA. At the same time, NLTB should publicly announce its assurance to the tenant community that those, whose leased land will not be required by the landowner for their use will be offered rolling leases under NLTA. Government and political party leaders should explicitly and publicly acknowledge that Fijians have traditional and customary ownership rights.
- NLTB should publicly announce that together with Government and in consultation with the Fijian landowners native land will be made available for resettlement. Government and political party leaders should explicitly and publicly announces its full support, both in terms of resources and finance, to NLTB to enable it to make available land for resettlement both in rural, urban and peri-urban areas.
- Government and political party leaders should explicitly and publicly acknowledge that Fijians have traditional and customary ownership rights over land below high water mark referred as their *qoliqoli* and that the Fijians should be rest assured that Bills shall be introduced conferring such rights to the Fijian owners.
- Government and political party leaders should explicitly and publicly acknowledge that native land previously acquired by Government for public purpose and are currently used for purpose other than for public purposes be immediately returned to the original owners.



Notes

- ¹ In Fiji's pre-colonial period, resources were owned by different units of Fijian society, *vanua*, *yavusa*, *mataqali* or *itokatokas*. *Vanua*, the largest unit, consisted of 'agnatic descendents of common ancestors or ancestral gods living in the same area. Each *vanua* would have one or more *yavusa*, the members agnatically related. A *yavusa* comprised several *mataqalis* whose members were in turn related to the descendent of their *yavusa's* founder. One or more extended families, *itokatoka*, form a *mataqali* (Ward 1995:200). The British colonial government that formalised land ownership in Fiji recognised communal ownership at the *mataqali* level (France 1969).
- ² Kamikamica and Davey note that figures quoted by Eaton (1988:24) and Nayacakalou (1971:216) were wrongly reported to be 25 per cent going to the NLTB, 30 per cent to the chiefs and 45 per cent to the *mataqali* members.
- ³ ALTA is entrenched in the 1997 Constitution, and thus any changes to it would require a two thirds majority in parliament.
- ⁴ The percentages are incorrect, see Note 2.
- ⁵ In the November 2002 Budget, the sugar export tax was increased to 10 per cent from January 2003 (Qarase 2002).
- ⁶ These estimates are based on matching the boundaries of land-owning units and *mataqalis* with the areas covered by sugarcane leases, actual land rent paid by lessees, and the number of over-18 years old members of each land-owning unit. The amount of rent payable to each land-owning unit was assessed using actual rent paid by the lessees and determining the proportion of that rent that should accrue to each land-owning unit based on the proportion of the lease which belongs to the particular land-owning unit from the Native Land Registry at the NLTB. Per member rent was estimated using the total rent received by a land-owning unit, after the NLTB and the chiefs' share was deducted (see Note 2) and divided by the number of adults over 18 years registered in the *Vola ni Kawa Bula* maintained by the Ministry Fijian Affairs (see Lal et al. 2002 for details).
- ⁷ Goodwill payments, although illegal under ALTA, have always been paid by tenants. In the past these usually were equivalent to about one year's rent. In 1999–2000, the goodwill (or New Land Consideration fees, as goodwill has recently been referred to) charged by NLTB ranged between F\$2,000 and F\$22,000 per lease (Lal et al. 2001a). A similar amount has also been paid to the landowners for giving their 'consent'.
- ⁸ These figures differ from those reported in Lal et al. (2001a), although both were derived from NLTB. According to the Manager, Information Technology, NLTB, the difference is due to different cut-off dates used to determine when the leases expired.
- ⁹ Proposed sugarcane quality payment, as in the case of the Australian system, would reward growers and millers for their respective efficiency gains over and above some benchmark, and penalise them according to their efficiency losses. Despite the growers and the miller agreeing in 2002 to implement such a system from the following crushing season, according to Mr Gerald Barrack this has been deferred for at least another year (*Fiji Times*, 19 February 2003). While the growers are still in support of the introduction of the sugarcane quality payment system (Sugar Cane Growers' Council 2003); it appears that the miller has changed its position on this.
- ¹⁰ Expected net returns are determined by multiplying the probability and the net return.

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