

Forum: General Assembly 4 (Special Political and Decolonization)

Issue: The Question of Tokelau and New Zealand

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Introduction

Tokelau is a non-self-governing territory in the South Pacific ocean, belonging to New Zealand. Politically, Tokelau is referred as the three Pacific atolls which consists of Atafu, Nukunonu and Fakaofu. Although Tokelau is non-self-governing, the territory has its own judicial system, political institutions, public services, shipping systems, telecommunications as well as full control over their budgets. “The abiding feature of Tokelau government is the exercise of pule (power) by the village authorities in accordance with tradition. This is the most important feature of Tokelau government. It follows a substantially unwritten and oral tradition” ([Tokelau: A History of Government](#)). “New Zealand provides about 50% of Tokelau’s annual Government budget, and is responsible for its defence and security, including maritime surveillance and other defence programmes” ([New Zealand Foreign Affairs and Trade](#)). For 92 years, it has remained one of New Zealand’s last dependent territories to vote on what its political status will be. It’s people consist of New Zealand citizens. Over the years, the relationship between New Zealand and Tokelau has been complex and has not been well understood by a large majority of the New Zealand public. “New Zealand has never had a permanent representation based in Tokelau” ([New Zealand Foreign Affairs and Trade](#)). Tokelauans are New Zealand citizens and have full rights to enter and leave New Zealand as they please along with having the same benefits New Zealanders do.

Definition of Key Terms

Atoll

Ring shaped coral reef which includes a coral rim that circles around a lagoon

Aegis

Support of a particular organization

Sovereignty

Supreme power and/or authority

Jurisdiction

The official power to make legal judgements and decisions

Able Bodied

Fit and healthy, someone who doesn't suffer from a physical disability

Black-birding

Coercion of people through trickery and kidnapping to work as labourers. Europeans used to coerce indigenous people as labourers

Indigenous

Native peoples, ethnic groups

Free Association

A relationship among a group of people where there is no state, social class or authority

Integration

When a territory is merged in another state and governed as a district of that state

Background Information

Traditional Government

Traditionally, Tokelau had been described as the ‘homelands’ by the people of Tokelau. The first European contact with the villages implemented their governmental systems putting the ruler of Fakaofu as the dominant of all the communities. Throughout this, the Tokelau traditional system, was encountered by the first Europeans and faced many challenges during the 19th century and early 20th century. Of these challenges were the epidemics of the Peruvian slave traders, along with the Christianising influence of the Roman Catholic and Protestant Missionaries. The final challenge it faced before being a part of New Zealand was by the presence of Great Britain in 1889 first, as a protector then as a colonising power. This ended in 1946. Tokelau had been known as The Union Group between the years of Great Britain’s colonization, then as The Tokelau Islands from 1946 to 1976. It was officially named ‘Tokelau’ since 1976.

Courts

Traditional village systems on the judicial front, have been used without exception for the purpose of resolving their disputes. “On a broad view, Tokelau village government has changed little during the last 100 years. Villages are still controlled by village appointed officials operating under the aegis of the Council of Elders of the village” ([Tokelau: A History of Government](#)). The titles of the village officers are always different and depend on the nature of each village’s workforce development. Tokelau now has a clear international presence and as of 1993, after the establishment of their first national government, that presence is in the people of Tokelau’s control.

Western Pacific High Commission Establishment

Tokelau was not under British sovereignty in 1877 however, they were brought under British protection by the Western Pacific Order 1877. “This Imperial Order established the post of of High Commissioner of the Western Pacific to exercise British jurisdiction in respect of British subjects in the islands of the Western Pacific that were not colonial territories of Britain or foreign states” ([Tokelau: A History of Government](#)). The introduction to British laws in Tokelau was linked to a horrific period of their history. During the 1860s, Peruvian slave traders visited Tokelau and removed half of the population by force, including all the able bodied men. The British enacted many Acts due to the affect the slave ships and black-birding had on Tokelau. Their Acts included: The

Kidnapping Act 1872 (UK) however it was later amended as the Pacific Islanders Protection Act in 1875 (UK). “These Acts restricted the ability of British vessels to carry indigenous labourers without a licence from a British Governor or consular officer” ([Tokelau: A History of Government](#)). In the previous years before the Kidnapping Act and Pacific Islanders Protection Act, Great Britain enacted The Foreign Jurisdiction Act 1843 (UK), allowing them to exercise their policing authorities even in non-British territories. Tokelau village level governance was unaffected by the governance structure of the High Commissioner. British legislation focused primarily protecting the indigenous communities from external forces.

Self-Determination

The true definition of self-determination is “determination by the people of a territorial unit of their own future political status” ([Merriam-Webster](#)). There are 3 ways a colonized territory can self-determine: independence, free association and integration. For a country to be independent it means that they have complete authority over their affairs. The United Nations has always supported the idea that Tokelau should be decolonized which also comes from international law. “The United Nations has an interest in the decolonisation of Tokelau but has always emphasised that the choice is for Tokelau and the timing of an act of self-determination is also Tokelau’s choice” ([Tokelau and Self-Determination](#)).

Major Countries and Organizations Involved

Tokelau

Tokelau’s islands have been inhabited with Polynesians for more than 1000 years, but the name ‘Tokelau’ has been given only during the 18th century. In the 18th century, the three atolls of Tokelau went through a series of war until Fakaofu under the rule of Tui Tokelau defeated and united the three nations. Soon after, however, missionaries began to transport Tokelauans, devastating diseases seized the life of many, and slave trading reduced the total population of Tokelau from 1000 to just over 200. Consequently, the Tokelauans desperately called for protection from the UK as a British colony.

Tokelau's local government consists of three village councils called the taupulega – one from each atoll. Additionally, every three years, the representatives of each atoll – faipule – are elected along with the village mayors – pullenuku. Every year, the position of ulu o Tokelau – head of government – is rotated between the three faipules. Moreover, every three years, a 21-member parliament called General Fono is elected based on the population density of each atoll.

In 2005, Tokelau faced environmental catastrophes – including tropical cyclones and spring tides – that caused extensive damage to the villages. Tokelau's economic relationship with and assistance by the government of New Zealand played an instrumental role in their recovering from the devastating disasters.

There is general confusion within Tokelauans regarding what self-determination will entail. The most recent referendum on self-governance in 2007 was rejected as it fell 16 votes short from the two-third requirement. It is integral for the United Nations to inform and guide Tokelau in its decolonization process and its decision-making of either to gain self-determination or remain as an official part of New Zealand.

United Kingdom

The British was the official protectorates of Tokelau from 1877. In 1926, however, the administration of Tokelau was passed from the British to New Zealand. Afterwards, Britain rarely intervened in the political, economic, and administrative activities of Tokelau. Tokelau, likewise, did not established any significant economic or political relationships with the United Kingdom.

New Zealand

“Tokelau is administered by New Zealand in accordance with article 73 of the Charter of the United Nations.” Hence, New Zealand is under an “international obligation to develop self-government in Tokelau” ([Tokelau: A History of Government](#)). The goal of progressing towards self-government in Tokelau is the exercise of Tokelauans to self-determination.

The New Zealand government encouraged the development of self-government in Tokelau for the past decades. Some of the accomplishments include the establishment of the separate court

systems in 1986, the granting of Tokelau's national law-making power in 1996, and the transfer of public service responsibilities to the Tokelau government in 1993.

Although Tokelau has established its own legal and judiciary system many years ago, the New Zealand government still has significant involvements. The administrator of Tokelau is a New Zealand government official responsible for the administration of the executive council of Tokelau.

In the judiciary system, Tokelau does have its own local first instance courts, but for serious cases and matters, the High Court of New Zealand and the Court of Appeal of New Zealand function as the High Court of Tokelau and the Court of Appeal of Tokelau. Moreover, criminal law, family law, commercial law of Tokelau have been significantly influenced and shaped by that of New Zealand.

It is essential for the United Nations to assist New Zealand in promoting self-governance and self-determination in the region of Tokelau.

Timeline of Events

Date	Description of event
1877	Tokelau officially becomes British protectorate
1889	Tokelau annexed into the Gilbert & Ellice Islands Protectorate
1926	Administration passes from Britain to New Zealand
1948	Tokelau Islands Act
1963	Tokelau Amendment Act
1968	Tokelau Amendment Act Commencement Order
1976	Tokelau (Territorial Sea and Fishing Zone)
1976	Government Superannuation Fund Amendment Act
20-24 October 2007	Referendum on self-determination

Relevant UN Treaties and Events

- Question of Tokelau, 9 December 1994 (**A/RES/49/47**)

- Treaty of Free Association with New Zealand, October 2007
- Question of Tokelau, 17 December 2007 (**A/RES/62/121**)
- Question of Tokelau, 10 December 2010 (**A/RES/65/114**)

Previous Attempts to solve the Issue

In recent years, the UN General Assembly has annually passed resolutions to move forward with the issue of Tokelau. Member states have all agreed to support Tokelau in its process of decolonizing, along with New Zealand. It is important to recognize that Tokelau should be given the freedom to decolonize under its own terms and at its own pace; this is agreed upon by nations. New Zealand continues to provide economic and social requirements for Tokelauans to aid an easier transition. Multiple referendums have been held to discuss the self-determination of Tokelau. 2007 was the latest referendum, very narrowly missing the two thirds requirements for the votes. Tokelau is the only island yet to gain the status of a self-governing state in free association with New Zealand, unlike its neighboring islands.

Tokelau has also proven themselves to be capable to run as an independent state. Nearly all of Tokelau's energy needs is met by solar power across the area. The economy is also built on subsistence farming, as well as cash crops. Fishing is also a contributor and is a primary export of the country. However, many of these crops are only exported to New Zealand. Tokelau's involvement in reducing climate change and identifying the main sources of income is proof as to why Tokelau can be its own self-governed state. While this is not a direct solution to the issue, many nations have recognized Tokelau's ability to develop into a nation. Unfortunately, Tokelau's income is exceeded by its expenses and must depend on aid by New Zealand. This holds Tokelau back from complete independence.

Possible Solutions

As mentioned previously, the last referendum was during 2007. Over 10 years have passed since then, therefore calling for a referendum to expedite the situation seems necessary. This time around, Tokelau will hopefully get the appropriate number of votes to be identified as a self-governing state. In order to do so, Tokelau must confirm its capability to function as a self-governing state. Tokelau ship majority of its products to New Zealand only. Tokelau should start

to establish new trading systems to export goods to nearby countries such as Australia and Papua New Guinea. This can demonstrate Tokelau's ability to communicate with other nations without the help of New Zealand. Tokelau also depends on New Zealand for aid when spending is greater than revenue; there must be ways to overcome this for Tokelau to be seen as independent. Trading internationally will hopefully generate more revenue to reduce Tokelau's dependency on New Zealand. Tokelau can also consider manufacturing primary resources to increase income. Since most of the crops are cash crops, Tokelau can designate a certain percentage to stay within the nation and support the Tokelauans while the rest is exported. Finding ways to prove Tokelau can be a self-governed state will convince nations to vote for this during a referendum.

The extent as to which New Zealand can support and control Tokelau must be reestablished so that Tokelau can emphasize its ability to govern itself. Currently, New Zealand has full control over Tokelau's budget, judicial systems, telecommunications and more. An agreement to allow for at least 50% control over these matters would help Tokelau move to the status of a self-governing state. Tokelau should aim to gradually transition from being dependent on New Zealand to its independence. This can solidify more votes at a potential referendum.

Additionally, the main issue to address is the fact that the Tokelauans do not know the entire situation. Citizens of Tokelau are mostly unaware of the situation of Tokelau aiming for self-governing (or not) and hence cannot decide which option they want to go forward with. It is therefore essential to ensure that the local population is aware of the problem and a vote can be conducted to determine the ultimate goal of Tokelau. Ultimately, the decision of whether Tokelau remains part of New Zealand or becomes an independent state is dependent on the public. Polls must be put into place to gather the opinions of the Tokelauans once everyone is made aware of Tokelau's ability to become self-governed. Once this is done, there may need to be a new resolution drafted based on the outcome to implement the final decision.

An alternative option to rid of bias during voting is appealing to the International Court of Justice (ICJ) to fully investigate the situation at hand. Since most Tokelauans do not know entirely what is the political status, measures must be taken to ensure awareness amongst the public. The ICJ can collate all the information of the general public and come to an unbiased conclusion as to what the Tokelauans want: self-governance or to integrate with New Zealand.

Bibliography

Foster, Sophie. "Tokelau." *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., 26 Jan. 2018, www.britannica.com/place/Tokelau.

UN GA. "United Nations Official Document." *United Nations*, United Nations, 15 Dec. 2017, www.un.org/en/ga/search/view_doc.asp?symbol=A%2FRES%2F72%2F107

UN GA. "United Nations Official Document." *United Nations*, United Nations, 22 Feb. 2001, www.un.org/en/ga/search/view_doc.asp?symbol=A%2FRES%2F55%2F143.

Britannica, The Editors of Encyclopaedia. "Atoll." *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., 21 Oct. 2013, www.britannica.com/science/atoll.

Britannica, The Editors of Encyclopaedia. "Blackbirding." *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., 18 Sept. 2016, www.britannica.com/topic/blackbirding.

Britannica, The Editors of Encyclopaedia. "Sovereignty." *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., 2 June 2014, www.britannica.com/topic/sovereignty.

"Indigenous." *Dictionary.com*, Dictionary.com, www.dictionary.com/browse/indigenous.

New Zealand Ministry of Foreign Affairs and Trade. "Tokelau." *New Zealand Ministry of Foreign Affairs and Trade*, www.mfat.govt.nz/en/countries-and-regions/pacific/tokelau/.

"Tokelau and NZ Relations: A Historical Perspective and Lessons." *Tokelau Government*, www.tokelau.org.nz/Bulletin/March2017/TokelauNZhistory.html

“Aegis | Definition of Aegis in English by Oxford Dictionaries.” *Oxford Dictionaries* | *English*, Oxford Dictionaries, en.oxforddictionaries.com/definition/aegis.

“Tokelau: A History of Government.” Edited by Tony Angelo and Talei Pasikale, *The Constitutional History and Legal Development of Tokelau*, 2008, www.tokelau.org.nz/site/tokelau/files/Tokelau%20A%20History%20of%20Government%20FINAL.pdf