



**Children's interest**

ACTING divisional planning officer northern Uraia Rainima has urged the members of the Macuata Provincial Council to think about the future of their younger generation. Mr Rainima told council members on Thursday they should open up their minds and decide what was best for their children.



**Land challenge for all**

... the challenge is always in the mechanism for ensuring that the land is readily available. Not the ownership, but the use of it to those who will be wanting it through leases **The Fiji Times — Pg 12**



**Qetaki steps in**

ITAUKEI Lands Trust Board general manager Alipate Qetaki will meet Nakelo landowners of Visesei to discuss the alleged leasing of their land without their consent. Mr Qetaki said he would respond to media questions after meeting with the landowners. A police investigation on the issue has been conducted.



# 'Time bomb' ticks on



By PROFESSOR SPIKE BOYDELL

AS I write this, there are just over 100 days until Fiji goes to election. The Bainimarama Government has already had 2700 days to sort out the challenges associated with land in Fiji. Just as the resolution of land issues proved too hard in the lead up to independence, so to is the challenge of land being too difficult to come to terms with even though the government had a perfect opportunity to provide clarity without an opposition.

More than anything, land must be a central issue in the forthcoming election. History, and the indelible preponderance attached to land, continue to be at the forefront of attention as witnessed by recent *mataqali* challenges and the *vanua* stance in recent *The Fiji Times* reports (see FT 1 June, regarding the claims by the tokatoka o Nakelo of Visesei and the demands of Ratu Tevita Momoeodonu on behalf of Ba Provincial Council).

I have a horrible sense of déjà vu. In early 2000 I found myself on the Land Use Committee that the then Chaudhry government established to effectively formalise its aspirations for changing the structure of and access to land in Fiji. As it transpired, the government was not interested in my views or indeed those of the illustrious members of the committee. Rather, the importance for the then government was using our names on the document to seemingly lend some gravitas to their inappropriate intentions.

At that time, I was the head of Land Management and Development at the University of the South Pacific. I knew things had gone somewhat adrift with the LUC when I and other delegates rolled up for a meeting only to find the dates have been changed and the committee had sat the previous day. What happened in the subsequent months is now well documented in history and indeed what went on with that ill-fated Land Use Committee in part led to the coup of 2000.

There is growing concern that none of the aspiring political parties standing for election in 2014 have yet delivered a clear vision for land. The only insights that I can find on the internet were made in Biman Prasad's oral manifesto for his NFP vision, and I quote: "Land and the issue of agricultural leases has always been a contentious and a source of bitter and acrimonious debates. The NFP has in the past advocated the need for a lasting solution to the issue of expiring land leases."

"The NFP will promote a Master Lease concept where government leases all available agricultural land from landowners and then re-leases it to tenant farmers from minimum 10 year of 99 years. We will push for agricultural and residential tenants leasing Crown 'C' Land be provided the option to buy the land at a price following valuation of the unimproved capital value of the land."

(source: <http://republikamagazine.com/2014/03/biman-prasad-on-assuming-nfp-leadership/> accessed 12 THE FIJI TIMES — SATURDAY, JUNE 7, 2014



The author is urging all aspirant political parties to show how they will respond to clear directions in coming to terms with the challenge of land in Fiji. Picture: FILE

cessed 20140516).

That sounds like early 2000 revisited.

Land is central to identity in Fiji. But we have to remember that in all societies there are some people or groups who have superior rights over land and others who have rights to access and use surplus land productively. It's fairly clear to see that if the NFP were to come to power after the September elections, if they were to maintain the approach that Biman Prasad articulated, Fiji will be destined to have another coup later this year or early in 2015.

As an aside let me say I have nothing against Prof Prasad, having worked with him as a colleague at USP for several years. My concern lies with the naivete not just of the NFP, but of the government and the aspirant political parties standing for election in September, to put forward a case that enables land to be central to political stability in Fiji in the coming years.

I remember sitting on a panel at the Citizens Constitutional Forum National Land Workshop in Suva on Saturday, July 20, 2000 when in her opening address Adi Kuini Speed summed up the challenge perfectly when she said "no other issue is more important to our future and economic welfare than the resolution of issues associated with land and other natural resources"

Two years later, I convened the FAO/USP/RICS Foundation South Pacific Land Tenure Conflict Symposium in Suva in April 2002. We brought together more than 100 of the leading minds on land issues in Melanesia to attempt to address Adi Kuini's challenge. The declaration and resolutions from that symposium provided a very succinct summary of the issues and offer clear direction on the way forward (They can be found at <http://customarylandsolutions.files.wordpress.com/2014/06/spltc-symposium->

official-declaration-resolutions.pdf).

Again, what changes ... and who has listened (or wants to listen) to the collective wisdom that came from that major event. The advisory group was bipartisan and the participants experienced and diverse.

It is worth recounting the astoundingly erudite and accessible opening address at the symposium, which was an enormous gift from the late Savenaca Siwatibau — and holds as true today as it did 12 years ago.

In his opening oration Siwa said: "They say that land, like financial and human capital, is a factor of production, which helps drive economic and social

try how you will respond to those clear directions in coming to terms with the challenge of land in Fiji.

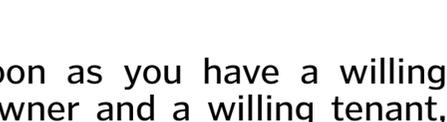
Siwa went on to say "the challenge is always in the mechanism for ensuring that the land is readily available. Not the ownership, but the use of it to those who will be wanting it through leases".

The ownership of land in Fiji is not in question. Leases always have been and always will be part of the solution of enabling access for productive agriculture and a productive economy.

To assume that a 99-year lease is part of the solution is to misunderstand completely what leases are about. Assumptions about 99-year leases justify why some in Melanesia are very suspicious of leasehold structures. A 99-year lease is tantamount to alienation. The problem we have in Fiji is that no government has been bold enough to put leases on a market footing. So much of the work that I have been involved with on customary land over the past 15 years has highlighted that countries like Fiji should have moved well beyond the application of Unimproved Capital Value as a basis for rental payments (See <http://customarylandsolutions.files.wordpress.com/2013/06/2007000052-boydell-et-al-2007-pifs-lmcm-2-3-review-of-customary-property-rights.pdf>).

As soon as you have a willing landowner and a willing tenant, you have a market situation. There was an opportunity under the Rabuka government to deal with the expiring agricultural leases. Unfortunately this moment passed. More recently the TLTB extended 4500 agricultural leases for 35 years. This merely deferred part of the challenge to the next generation. While the remuneration from these leases has increased, the basis of rental is still premised on a hypothetical construct of value (ie UCV) rather than the market.

While the Bainimarama Government established the Land



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development, generate national income, wealth, jobs and government revenue, combat poverty, improve the standard of living of all and ultimately entrenched social and political stability in any country.

"Land tenure, like culture and tradition, stands to evolve organically over time within a society. As in all things, changes and solutions have to be made and formulated. Solutions must be formulated from within and must reflect national, family and individual needs and aspirations and the changing global, regional, national economic, social and political dynamics that determine our destiny."

So come on all you aspirant political parties, show the coun-

Bank to facilitate potential access to land for investors, it unfortunately did so in competition with the trustees of customary land in Fiji (the TLTB). The TLTB has itself suffered inertia and could, in the eyes of some, be considered part of the land problem in Fiji. I have made suggestions to the Bainimarama Government and indeed to senior management in the TLTB on how they could best resolve the confusion and misunderstanding surrounding leases and lease structures in Fiji (and this is available on the Customary Land Solutions website at <http://customarylandsolutions.com/leaseholds/leaseholds-sample-scope-of-work/>). I have also been commissioned to advise the government on the iQoligoli (fishing ground) Compensation Policy, but that advice has not been progressed since 2010.

In summary, leases need to be of a duration that is fit for purpose and wherever possible at open market rent. This means that there needs to be some relative certainty for those investing in agriculture, just as there needs to be a level of certainty for those investing in tourism or mining ventures. Likewise clarity is needed on who owns the improvements on a simple residential lease. These are not difficult solutions to operationalise and manage, but they are politically challenging and require a strong government with clear vision to carry them through.

We can't skirt around the elephant in the room. The elephant in the room in the case of Fiji is that the iTaukei own the land — the *vanua* — not just as stewards for the current generation and their ancestors, but also to hold the land sustainably in trust for future generations. This in no way limits economic development. In all societies, there are groups of people who hold a superior interest (or property right) over land and there, are those who wish to use the land productively who hold a lesser interest such as a tenancy or lease. Political parties should not attempt to undermine or challenge the paramountcy of iTaukei land. The only maxim offering parity is within a Marxist or socialist society, and none of the current political parties in Fiji appear to be pushing that particular political persuasion.

To borrow from the lament of the well-known academic historian of contemporary Fiji, Brij Lal, "a time bomb lies buried". The recurring time bomb explodes every time part of society attempts to challenge the paramountcy of iTaukei land. The challenge for all political parties is to ensure that déjà vu does not become a reality.

Nobody wants another coup in Fiji. Everyone wants political stability. To achieve that, citizens of Fiji need to know what they are voting for in the upcoming election. The challenge is for political parties to clearly and simply explain how they will ensure political stability and economic growth premised on the paramountcy of iTaukei land. A time bomb can be diffused if we strive to make our institutional arrangements (the lease structures) fair and equitable, and our institutions (the iTaukei Land Trust Board) empowered and effective to manage customary land in the 21st century.

■ Spike Boydell is a property rights expert, and a specialist in valuation, sustainability and Pacific land tenure. The views expressed are his and not of this newspaper.