

The Spirit of Minerva: Notes on a Border Dispute in the Pacific

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Abstract

This paper examines the territorial dispute between Tonga and Fiji over Minerva Reef – an atoll located in the Pacific Ocean to the south of both countries. The dispute escalated in mid-2011 when Fiji destroyed navigational beacons erected by Tonga on the reef. This paper traces the history of the dispute and explores the positions of Tonga, Fiji and other parties on the question of who owns Minerva. The paper argues that in order to understand the dynamics of the dispute, it is vital to take into account the indigenous histories of both Tonga and Fiji. These must be considered alongside the rise of British influence in the Pacific in the late nineteenth century, various developments in the United States and, finally, the adoption of the UN Convention on the Law of the Sea in the 1970s. All of these factors, the paper argues, contributed to shifts in indigenous understandings of ocean boundaries and affected the parties' positions in the dispute.

Introduction

This paper examines the dispute over Minerva Reef between Tonga and Fiji. This border dispute escalated in mid-2011 when Fiji destroyed the navigational beacons erected by Tonga on Minerva Reef as a security and safety measure to aid mariners, ships and yachters sailing near the area.

The 1887 Tonga Proclamation was revisited in 1972 by the King of Tonga when he took his royal entourage to Minerva Reef. At the ceremony, the King declared that Minerva Reef belonged to Tonga. The 2011 standoff between Tonga and Fiji was triggered when Roko Ului Mara (also known as Lieutenant Colonel Ratu Tevita Mara), a senior Fiji military officer, escaped sedition charges but was rescued by a Tongan vessel in Minerva Reef. He had assisted Voreqe Bainimarama in mounting the 2006 coup d'état in Fiji.

This paper explores the positions of Tonga, Fiji, and New Zealand to ascertain the ownership of Minerva Reef. To determine this, I looked at several sources, such as coordinates and distances provided by experts. The outcome reveals that facts and figures only answer one part of this project's research question. As an indigenous Fijian writer, I was keen to tackle this question from an indigenous perspective and to examine the issues of sovereignty, chiefly relations and interactions between the people of Tonga and Fiji. The concept of kinship is crucial to understanding the dispute over Minerva Reef. Coordinates, geo-location, the Law of the Sea, sovereignty issues, and indigenous perspectives,

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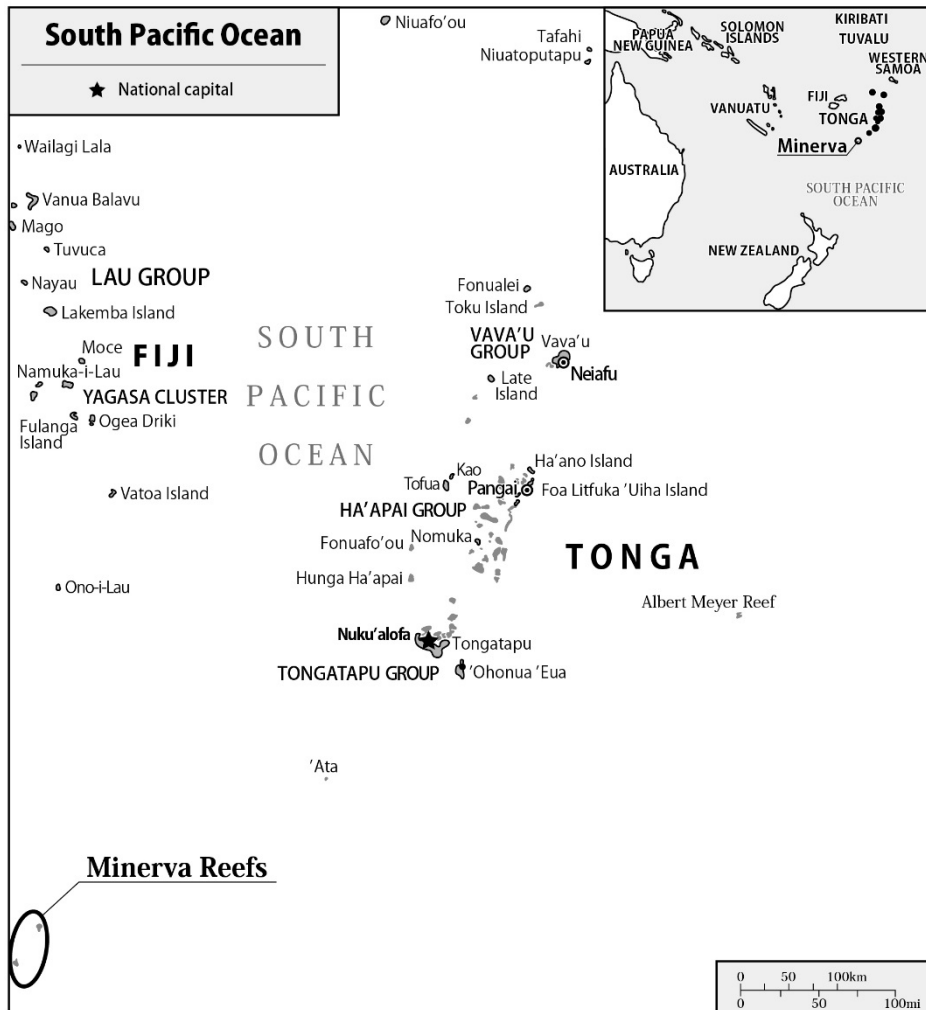


Figure 1: Minerva Reefs

along with other factors, are critical in giving readers an informed and comprehensive understanding of the dynamics embedded within this dispute.

The border issue involving Minerva Reef is complex. The issues of sovereignty and the territorial seas that surround the Minerva Reef between Fiji and Tonga, including New Zealand's border at the Kermadec Islands, require careful handling. Recently, there are foreign interests in the region pushing their agenda with little considerations for the "first users" of Minerva Reef and its surrounding ocean space. Minerva Reef represents the ongoing border, political, economic, cultural, and sovereignty debate affecting coastal states in Oceania in miniature.

What is Minerva Reef?

Minerva is the Roman goddess of war and bestower of victory. Arguably, Minerva Reef got

its name from a British whaling ship shipwrecked on the South reef, which was later named South Minerva. It is comprised of two parts – North and South Minerva Reef, and it was discovered, rediscovered, and then charted, twenty-five years later, in 1884, by Capt. H.M. Denham, who named it Minerva Reef.

The Tongans call Minerva Reef *Meneva-Teleki Tokelau* and *Teleki Tonga*. It is remotely located, 260 nautical miles from Tonga and 800 nautical miles from New Zealand. The reef has a unique circular lagoon, with deep channels through which yachts can sail into its inner part. Skill is needed to navigate through these channels, as a slightly wrong turn can mean ending up shipwrecked on the reef. This is where yachts or boats anchor to replenish or just enjoy the reef's surroundings. Additionally, yachters and mariners use this spot as a key stopover, whether travelling from Tonga, Fiji or even from New Zealand or Australia.

Hans Buchholz notes that the King of Tonga officially delineated Tonga's borders on August 24, 1887, asserting its claim on Minerva Reef.¹ There is scant literature available to signal counterclaims or objections at the time, nor any comment by Buchholz on Fiji's or New Zealand's position. In examining the occasions upon which Tonga formally claimed Minerva Reef, first in 1887 and later in 1972, the historical role of Ma'afu, as *Tui Lau* (a Fijian chiefly title) in Fiji, who arrived in Lau from Tonga in 1848 as a 22-year old Tongan noble, is highlighted. Upon his arrival, Ma'afu soon crafted and fought his way up to become one of the most powerful strategists and skilled warriors of his time in Fiji.

The dispute over Minerva Reef is deeply rooted in the history of sovereign relations between the two Nations, as can be gleaned from Ma'afu being in Fiji. Fiji and Tonga have a common bond due to their shared island history and longstanding connections. Tonga's powerful noble, Ma'afu, was ambitious, but was he strategically positioned in Eastern Lau, Fiji, by the King of Tonga? His might made him a signatory of the Fiji Chiefs Deed of Cession with Britain on October 10, 1874. He was skilled in military tactics, and wielded his power as a Tongan aristocrat, later marrying an indigenous Fijian woman and earning the title of *Tui Lau*. Prior to the British arrival in Fiji, Ma'afu had built up his image as a protector and benefactor of missionaries, traders, and friend of Ratu Seru Cakobau, a powerful Fijian chief and self-styled paramount chief of Fiji (*Tui Viti*). Ma'afu gained control of Eastern Lau, Fiji, islands abutting Minerva Reef, in view of its close proximity to the southernmost islands of Ono-i-Lau, also known as Ono-i-Tonga, located in the Lau Basin and back arc of Tonga. Was it Ma'afu's dominance in Eastern Fiji and his direct link to Tonga that cemented the Tongan's claim on Minerva Reef? Or was this claim based on prior cultural and indigenous relationship?

Who Owns Minerva?

Close relations between Tonga and Eastern Lau, Fiji, extend beyond the two ocean borders, a relationship that still exists today. To some degree, these traditional historical bonds and ties challenge

¹ Hanns Jürgen Buchholz, *Law of the Sea Zones in the Pacific Ocean* (Hamburg: Institute of Asian Affairs, 1987), 1–115.

the notion of sovereignty as it applies to the Western concept of territoriality, state absolutism over space and the definition of a border given in the UN Convention of the Law of the Sea (UNCLOS). This concept of state sovereignty was challenged during interviews undertaken with indigenous or first nation peoples of both island states; Tonga and Fiji. Participants were asked to comment on the question: Who owns Minerva Reef? The respondents either favored their own homeland or pointed out that both Tonga and Fiji shared Minerva Reef for subsistence fishing due to their historical relations and close location and proximity to each other. Based on random responses, Tongans and indigenous Fijians view both Tonga and Fiji as having close links with Minerva Reef. As a side note, Maori views on Minerva Reef have yet to be recorded. However, technical information on distance and coordinates were provided by the National Institute of Water and Atmospheric Research (NIWA) of New Zealand. Anthony J. Legge (Examiner of Masters & Mates Maritime Safety Authority, New Zealand) calculated the positioning of Minerva Reef and its distance from the three capital cities of Tonga, New Zealand, Fiji.² More details will be given later in this paper.

It is crucial to grasp the relationship between Tonga and Fiji at the indigenous level. The two countries share ancient oral cultural traditions, and their chiefly protocols are similar and uniquely entwined through the common bonds and history of the Pacific island states in Oceania. This was demonstrated when the King of Tonga claimed Tonga's official state borders, six years after Ma'afu's death in 1881 in Lau, Fiji.

Ma'afu had been instrumental in declaring Eastern Lau, Fiji, as part of Tonga. Evidence can be gleaned, in the renaming of Ono-i-Lau, the southern-most part of Eastern Lau Groups within close proximity to Minerva, as Ono-i-Tonga. Ma'afu's claim was prior to Fiji Deed of Cession 1874 with Great Britain.

This claim was later debunked by the King of Tonga, who affirmed that Eastern Lau remained part of Fiji Archipelago.³ What is unclear, though, is whether the Tongan King intentionally excluded Minerva Reef from his statement against Ma'afu's claims. Furthermore, he did not acknowledge the people of Ono-i-Lau in the Eastern Lau Group, who were once Ma'afu's subjects. Minerva Reef was where these villagers gathered subsistence seafood for their families. Was Minerva Reef already a part of Tonga prior to Ma'afu's claim? Or did Ma'afu's new role as first *Tui Lau* in Fiji mean he had jurisdiction over Minerva Reef? Ma'afu's demise in 1881 left vacant the position of the *Tui Lau* for almost half a century.

Tonga-Fiji Rivalry

In 1903, the British Administration in Fiji, along with the Fijian chiefs, oversaw the transfer of the traditional Fijian chiefly powers of the *Tui Lau*, which had been held by Ma'afu until his demise.⁴ The *Tui Lau* title was later merged with the *Tui Nayau* title, another chiefly position from *Lakeba*, in

² Anthony J. Legge, email message to author on June 6, 2017.

³ Ronald A. Derrick, *A History of Fiji* (Suva, Fiji: Printing Stationery Department, 1946), 53–187.

⁴ *Ibid.*

the Eastern Lau Group. Ma'afu, became the last Tongan noble to hold a Fijian chiefly title, thus ending Tonga's legacy in Lau. However, two Fijian chiefs, Ratu Sir Lala Sukuna and later Ratu Sir Kamisese Mara, assumed the *Tui Lau* title at different times. Both were, in essence, connected in kinship with Ma'afu. Tonga's links with Fiji at the indigenous level remain strong to this day. What impact did this deep relationship have on the Tonga-Fiji dispute over Minerva Reef?

While Eastern Lau, Fiji, underwent leadership changes, the Tongan King declared Tonga's state borders in 1887. Arguably, two critical questions emerged:

- a) Was the British administration in Fiji post-Deed of Cession 1874 instrumental in fine-tuning Fiji-Tonga links in view of the close traditional relations between the two countries?
- b) What impact did Ma'afu's installation in Fiji, as the first *Tui Lau*, have on Minerva? Did Ma'afu and his kinsmen of Tongan-Fijian extraction, known as *Yavusa Toga* (or clan of Tonga), include Minerva when declaring the Eastern Lau Group as part of Tonga?

The *Yavusa Toga* tribe was instrumental in installing, at different times, both of the subsequent *Tui Lau* (Ratu Sir Lala Sukuna and Ratu Sir Kamisese Mara). The *Yavusa Toga* (Ma'afu's kinsmen), have been added in the indigenous Fijians *Vola ni Kawa Bula* and are legally recognized by the Native Land Commission in Fiji. Ratu Sir Lala Sukuna, a lawyer and statesman, served as chief assistant of the Native Land Commission for Fiji and was stationed in the same village *Lomaloma*, where Ma'afu had his headquarters.

Ratu Sir Kamisese Mara, Fiji's founding father of democracy and Fiji's first Prime Minister upon its independence in 1970, became the third *Tui Lau*. He was installed several years after Ratu Sir Lala Sukuna's death in 1958. How did such close kinship affect the ownership of Minerva Reef? Importantly, Roko Ului, Ratu Sir Kamisese Mara's youngest son, served in the Fiji military and escaped sedition charges in 2011 by floating in a punt to Minerva Reef. Roko Ului was rescued by a Tongan naval ship, which was in the vicinity on training exercises with the New Zealand navy. Was this a coincidence? This incident, however, has remained a bitter pill for Fiji to swallow.

The unspoken role of Fijian chiefly protocols and kinship, or the "Fijian Way," for these three men of noble birth, all becoming *Tui Lau* at different periods in Fiji's history, is worth noting. This is a point vital for understanding the deep interconnectedness of sovereignty over Minerva Reef between Tonga and Fiji. Who owns Minerva Reef when such are the dynamics? Seeing that sovereign relations go beyond physical ocean borders, what would the ownership of Minerva Reef look like if shared between the two countries, or managed as a condominium? The complexity of the relationship between Tonga and Fiji at several layers – pre-and post-Deed of Cession 1874 – gives a twist to the dispute over Minerva Reef.

Development of the Minerva Reef Debate

Fast-track Minerva Reef debate to June 15, 1972, when His Majesty King Taufa'ahau Tupou the Fourth proclaimed that Minerva Reef belonged to Tonga. A military officer of Tongan extraction,

Captain Sione U. Fifita, recorded these details in his research paper.⁵ Another Tongan, Tevita [Fisi] Fifita, had set sail with his crew from Tonga to Aotearoa – New Zealand, only to have their boat wrecked on Minerva. In its claim, Tonga iterated that the shipwrecked Tongan crew lived on Minerva Reef for fourteen days. As lamented by one of the crew, Fine Feuiaki: “It was Monday evening (twelfth day) ...Ve’etutu yelled out, ‘Its an aeroplane.’...It was about 11pm when the plane dropped a box of food for us using a parachute, before going back to Fiji... the note saying that the plane would be back in the morning to take us back to Fiji.”⁶

The quick action of the “mercy flight to [Minerva] reef” is credited to “the Royal New Zealand Air Force” based in Suva, under the capable hands of “Commanding Officer, Captain J.D. Robins,” who had said; “if we go tonight we may save a life,”⁷ and brought hope to the stranded Tongans.

The narrative of Tongan ownership was supported at the 1972 South Pacific Island Forum (SPIF), where the member states present affirmed Tonga’s historical connection to Minerva Reef, adding that there could be no question of recognizing other claims to sovereignty over the reef. Notably, Fiji had gained Independence in 1970, two years before this declaration, under Ratu Sir Kamisese Mara’s leadership. Was Ratu Mara showing his sovereign fellowship with the King of Tonga at the 1972 SPIF? Was the spirit of Minerva in motion when, thirty-nine years later, his son, Roko Ului Tevita Mara, a senior Fiji military officer, was rescued by a Tongan naval ship in Minerva Reef? This act has heightened the tensions over Minerva between Tonga and Fiji. It points towards an indigenous consensus, a “Pacific Way” in Ratu Mara’s own words.⁸

Notably, Tonga reasserted its claim on Minerva Reef via the Tongan Government Gazette Extra-ordinary No. 7. on June 15, 1972. Buchholz asserts, “Taking these islands as the basis of applications of equidistant lines with neighboring states, Tonga will gain approximately 194,000 square kilometers of sea area and Fiji will lose 64,000 square kilometers.”⁹

Based on Buchholz’s calculation, there is a difference of 130,000 square kilometers of ocean space. This fact needs further research. From which points were the “equidistant lines” measured between Fiji and Tonga? Or was this part of the “*qoliqoli*,” or traditional fishing ground, an indigenous Fijian concept, acquired by Ma’afu, as Tui Lau, and gifted to Tonga? Buchholz’s analysis of the line of equidistance appears to award Tonga a gain of 194,000 square kilometers of the sea and not equally split at mid-point between Tonga and Fiji. Was he favoring Tonga? In Buchholz’s calculations, the “maritime law borders of Tonga and New Zealand will touch.” Is there an overlap of the three countries; Tonga, New Zealand and Fiji at Minerva? This requires further analysis.

⁵ Sione U. Fifita, “Enhancing Tonga's Maritime Security,” Center for Defence and Strategic Studies, March 23, 2015. Accessed July 29, 2016: <http://www.defence.gov.au/ADC/Publications/>

⁶ Fine Feuiaki, *Minerva Reef Hakau Minerva: The Tuaikepau's Tragic Voyage* (Kingdom of Tonga: Taulua Press, 1992), 10–11.

⁷ Olaf Ruhan, *Minerva Reef: Fourteen Desperate Weeks with the Castaway Tongans* (Auckland: Minerva Bookshop Limited, 1963), 185–186.

⁸ Stephen Levine, ed., *Pacific Ways Government and Politics in the Pacific Islands* (Wellington, New Zealand: Victoria University Press, 2016), 1– 13.

⁹ Buchholz, *Law of the Sea zones in the Pacific Ocean*, 1–2.

Also critical are conversations by western experts recorded in a report on ocean mapping covering the Pacific. “The objectives and plans for the Circum-Pacific Map Project” were formulated in February 1973 at an organizational meeting held in California.¹⁰ It is evident the project was a first attempt by the United Nations and a team of experts, to define Pacific maritime boundaries and ocean spaces plus resources from an economic position.

The debate over Minerva Reef provides a micro version of the ongoing border, political, economic, cultural, and sovereignty debate in Oceania. To complicate matters further, emerging at another layer are: western and newer concepts of politics, foreign interests and/or language and a terminological tug-of-war, to which peoples from these two small island States, Tonga and Fiji, remain generally oblivious.

A Pacific Island Way

It is astonishing to witness invisible forces overriding an age-old Pacific Island way of understanding these borders. The winds of change have hit Oceania with such speed that they appear to have eroded historical ties, and with them indigenous interpretations of these maritime boundaries in ocean spaces. This may indicate that there is a strategic power play involved both within the intra-regional and extra-regional levels. This is exacerbated by existing intra-regional disputes, as the Minerva Reef case shows. A major concern for the inhabitants of these little island nations is the realization that their cherished indigenous/traditional customs, values, and concepts of regional boundaries are being trampled on in the pursuit of economic gain and growth.

I was curious to gauge what mariners and yachters, mostly from western countries, felt about Minerva Reef. Was getting to and beyond Minerva Reef problematic? History has revealed that several ships, yachts and smaller boats have been shipwrecked on Minerva Reef. Was Minerva Reef a favorite spot or have yachters tried to avoid it? Simmons positioned Minerva Reef as follows: “to the east lies Tonga Trench, an enormous marine canyon where depths of over 35,000 feet has been measured.”¹¹ Simmons further indicated that South Minerva consists of two adjacent atolls, each seven and half miles in circumference positioned atop a submarine plateau. Rather than two atolls, there appears to be three; Simmons noted that North Minerva is located 18 miles to the northeast of South Minerva. In examining images captured by yachters, there are clearly two distinct atolls, with an additional atoll embedded into the south ring.

Furthermore, James Simmons iterated, “After two days fast sailing from Nuku’alofa we came to Minerva Reef and entered through a narrow pass in the circle of the coral ... here in the Pacific hundred[s] of miles from terra firma...”¹² Yachters use Minerva Reef as island stops when navigating

¹⁰ OETB, “Circum - Pacific Map Project: Framework for International Resources.” *Circum – Pacific Map Project. California: International Oceanographic Institute* (1976).

¹¹ James C. Simmons, *Castaway in Paradise: The Incredible Adventures of True-Life Robinson Crusoe* (New York: Sheridan House, Inc., 1998), 183–184.

¹² *Ibid.*

to or from Fiji and Tonga. This description asserts the close proximity geographically and the interconnectedness that Tonga and Fiji have to Minerva Reef.

While Minerva Reef represents ocean tranquility, as captured in images by yachters, there is another side to this narrative – the reef is also a dangerous spot. Minerva Reef still has the wrecks of hulls and other remains of ships and yachts that foundered on its treacherous reef. One such example was *Strathcona*, a wooden schooner, which crashed onto South Minerva Reef in 1914, six days after its maiden voyage. Another was a Japanese fishing vessel found wrecked on Minerva Reef in 1960. Its crew members were safely transferred to another fishing vessel after making contact via radio (See a detailed discussion on p. 107).

As Ruhan notes, “No one will ever complete the tally of wrecks for which the reefs [Minerva] have been responsible; it would probably include some of the great double canoes of Fiji, vessels larger, faster, and more efficient into the wind than any of the European vessels of discovery that encountered them... The lesser vessels of Tonga must have known the reefs; they were commanded by seamen no less efficient than the Fijians.”¹³

The most controversial of these wrecks, as noted earlier was captured by Tevita Fifita, nicknamed “Fisi,” meaning Fiji, due the “inability of Tongans to pronounce “Viti,” or “island” in Fijian.¹⁴ Fifita sailed with his crew from Tonga on board the Tongan “Tuaikaepau,” a 51-foot wooden cutter, wrecked onto the eastern side of South Minerva Reef in the darkness of night. Fine Feuiaki, engineer on the ill-fated cutter, recalls, “we wrote the message, “S.O.S Tuaikaepau Minerva Reef” on several pieces of timber and two 44 gallon drums” which were thrown into the sea in the hope that someone would find them and “raise the alarm.”¹⁵ The tragedy occurred on the night of July 7, 1962. The Tongan skipper was bound for New Zealand “for a refit”¹⁶ after departing Nuku’alofa, in Tonga.

Dogger Bank and a Tax Haven

Minerva Reef, Ruhan¹⁷ asserted, is “not yet an atoll ... must wait centuries through, the violence of waters has thrown an accumulation of coral masses from its flanks upon its surface, until the great lagoon that forms its centre has silted up,”¹⁸ a scenario that intrigued foreign interests.

Was it the setting of this “lonely Minerva Reef”¹⁹ that drove a group of libertarians to set up a “Republic of Minerva”²⁰ funded by a syndicate headed by Michael Oliver? This American syndicate

¹³ Olaf Ruhan, “*Minerva Reef*,” 1–8.

¹⁴ *Ibid.*, 38–39.

¹⁵ Feuiaki, Hakau Minerva, 10–11.

¹⁶ See the following source by Scott and Wendy Bannerot. Accessed December 24, 2018: <http://www.oceannavigator.com/January-February-2003/Ocean-atoll-awash/>

¹⁷ Ruhan, *Minerva Reef*, 1–2.

¹⁸ *Ibid.*

¹⁹ Robert Trumbull, “The Islanders fight Reef Plan,” *The New York Times*, February 27, 1972. Accessed September 1, 2018: <https://www.nytimes.com/1972/02/27/archives/pacific-islanders-fight-reef-plan-see-to-halt-the-creation-of.html>

²⁰ See Doug Jenkins, “A true record of the Minerva Reef saga of 1972 and the part played by the Tongan Shipping Company Vessel Olovaha.” Accessed October 14, 2018: <http://www.queenoftheisles.com/HTML/Republic%20>

sought “to create a new independent mini-nation, free of taxes and government controls” and began shifting barges of sand from Australia to dump on the Minerva Reef.²¹ The aim was to construct an artificial island. The syndicate wanted to raise the sandbank and surrounding shallow sand bank area to a level above mean high tide. Samuel P. Menefee, a lawyer, noted: “In August 1971, the Ocean Life Research Foundation arrived from Fiji”²² and began work on Minerva Reef. The group had dredged-up “two hammocks of land” and “erected twenty-six foot high markers replete with beacons and radar reflectors.”²³ Furthermore, Menefee cites Horn who argued, “Owen Claridge of Auckland law firm of Haddow and Co.” had duly “served detailed notice concerning the location, upon both the North and South Minerva Reefs to the New Zealand naval authorities” tagged as “in the interests of navigational safety” plus “evidence of the valid occupation of the Reefs” at Minerva.²⁴

Ratu Sir Kamisese Mara, Fiji’s Prime Minister, responded, stating; “The precedent is a rather dangerous one. If these people can do it there, what is to stop them from doing it here?”²⁵ New Zealand and Australia joined forces with five Pacific Islands in their efforts to “halt the plans” of the American syndicate.²⁶

How does the syndicate idea fit with the concept of a “Regime of Islands”²⁷ noted in the United Nations Article 121? On closer look, Article 121 reveals: “*An island is a naturally formed area of land surrounded by water, which is above water at high tide.*”²⁸ differing from Minerva Reef, whose sandy banks become fully submerged at high tide. Evidently, the push by the libertarian group to construct an island contradicts Article 121. The distinction between a “naturally formed area of land”²⁹ and a reef, upon which an island was planned to be artificially constructed, is crucial.

Where does “Dogger Bank” link into this scenario? In 2012, Helgoland researchers cited “Dogger Bank”³⁰ as providing “an ideal platform for long term research in marine species composition and faunal characteristics,”³¹ somewhat similar to Minerva Reef. The “Dogger Bank” in this instance refers to an area of “a shallow sand bank in the Central North Sea off the British coast, which resembles that of Minerva Reef lagoon. While Minerva Reef is situated in Oceania, and Dogger Bank lies near the British coast, both are located in the middle of the ocean away from mainland areas, with their reefs

of%20Minerva.html; for an example of the aquatic libertarian fantasies giving rise to the “Republic of Minerva,” see Austin Tate, “Sea City - circa 1971.” Accessed July 11, 2016: www.aiai.ed.ac.uk/~bat/sea-city.html.

²¹ Trumbull, “The Islanders fight Reef Plan,” February 27, 1972.

²² Samuel P. Menefee, “Republics of the Reefs: Nation-Building on the Continental Shelf and in the World’s Oceans,” *California Western International Law Journal* 25:1 (1994): 15–22.

²³ *Ibid.*, 16.

²⁴ *Ibid.*

²⁵ Trumbull, “The Islanders fight Reef Plan,” February 27, 1972.

²⁶ *Ibid.*

²⁷ “Oceans and Law of the Sea: Division for Oceanic Affairs and the Law of the Sea,” UN Conventions, December 10, 1982. Accessed September 15, 2018: www.un.org/Depts/los/convention

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Moritz Sonnewald and Michael Turkay, “Megaepifauna of the Dogger Bank,” *Helgoland Marine Research* 66:1 (2012): 63–75.

³¹ *Ibid.*

surrounded by a sandy bank that dries out at low tide. Menefee cites Horn as appearing to indicate that Oliver's syndicate "had a fair share of environmental awareness" in pursuing their dreams to build an artificial island on Minerva Reef.³² It is further asserted that a group of "geologists and biologists" were also "sent to study both atolls [presumably North & South Minerva] and make recommendations on how and where to create new land with minimum environmental/ecological impact."³³ This would have led to the destruction of the traditional indigenous Fijian "qoliqoli,"³⁴ a key concept for understanding ocean space within the neighbouring island states in Oceania.

Studies on both Dogger Bank and Minerva Reef point towards constructing "high-rise sea city to be built on concrete stilts,"³⁵ such as advocated by professor Austin Tate in his scholarly research blog, titled, "Sea City, circa 1971." This affirmed that living space was becoming scarce because of overpopulation and living on the sea as best option. Yet how did the libertarian group chose Minerva Reef? Was it a mere case of appropriation?

A response by the King Taufa'ahau Tupou IV of Tonga reasserted Tonga's position. The Royal entourage on board the Olovaha in 1972 included members of the Tongan Defense Force, a brass band, the news media, and reporters both local and international, all of whom witnessed the raising of the Tongan flag on Minerva in order to counter the libertarian syndicate's aim of appropriating Minerva Reef. An informant,³⁶ an immediate relative of a former senior Tongan government official who accompanied the King, confirmed that the details of the account given in "A true record of the Minerva Reef saga of 1972 and the part played by the Tongan shipping company Vessel Olovaha"³⁷ were actual occurrences.

Reports written on the alleged act of appropriation by the libertarian group indicated that, a week prior to the Tongan proclamation in 1972, a representative of theirs had asked for an audience with the King of Tonga. The request was denied. Instead, they were sent to discuss the proposal with a lower-ranking Tongan government official. Whether it was an act of defiance or appropriation, the libertarian group erected a ready-made flag on Minerva Reef, declaring it The Republic of Minerva. The plan was to turn Minerva Reef into a tax-free haven and to accommodate its target population of 30,000 people. The micro-nation project was in motion. Coins were minted with the Roman goddess Minerva's head as its emblem. In addition, stamps were printed with a full-scale plan of the new republic. What remains unclear is whether the libertarian syndicate's move was an act by restless individuals with money to spend and appropriate an ocean space in Oceania or was it an attempt to test the legal parameters? In the Pacific Island/Oceania context, the claims of the libertarian group appeared a blatant act of unlawful appropriation, with an undertone of mischief, and peddled a foreign futuristic agenda.

³² Menefee, "Republics of the Reefs," 16.

³³ Ibid.

³⁴ Foreshore & Seabed in Fijian Language.

³⁵ Menefee, "Republics of the Reefs," 16.

³⁶ Interview with Tongan source, 21 August, 2018.

³⁷ Jenkins, "A true record of the Minerva Reef saga of 1972."

The Twenty-first Century Debate

The ownership question over Minerva Reef resurfaced in 2011 between Tonga and Fiji. Tonga filed its claim to the United Nations, under the UNCLOS. Fiji filed a counterclaim. In its defense, Fiji argued that Minerva Reef is within its archipelago, EEZ, and continental shelf. The Fiji Government recorded an excerpt of this claim, with an entry date of June 14, 2011 on its website. Fiji's claim noted that Minerva Reef was located within Fiji's legal and internationally recognized borders.³⁸ What was missing from this entry was a specific reference to the UN clause or scholarly research to validate its claim. However, Fiji merely reiterated its claim to Minerva, asserting, that this had been endorsed by all Pacific Island countries over the years. As evidence, Fiji cited the acceptance of regional maritime maps issued by inter-regional organizations such as the South Pacific Applied Geoscience Commission (SOPAC), South Pacific Center (SPC), Pacific Islands Forum Fisheries Agency (FFA) and Pacific Islands Forum Secretariat (PIFS). If Fiji's statement is true, then it contradicts Tonga's earlier claim, cited by Sione Fifita, that the Pacific Island Forum had concurred with Tonga's claim in 1972.³⁹

Nevertheless, Fiji's recent claim to the Minerva Reef appears dubious due to a lack of supporting documentation to strengthen its argument. Moreover, the absence of sound scholarly research makes it a weak claim for Fiji. Importantly, Fiji's current claim, recorded on its government website in 2011, has a historical disconnect. It appears to disregard the cultural indigenous relationship between Tonga and Fiji, discussed earlier in this paper. Could the present Fiji regime, including non-indigenous players, be ignorant of the cultural ties between the two Pacific Island nations in Oceania?

As per reports by the United States Department of States Bureau of Intelligence and Research (USDSBIR) there are two different types of baselines in its legislation. Fiji has archipelagic baselines that connect most of the "islands to form the Fiji archipelago; seaward of those baselines is the territorial sea and high seas, landward of them are archipelagic waters and internal waters."⁴⁰ In this case, Fiji's claim on Minerva Reef would fall under the second type of baseline it has legislated, that identifies the seaward which encompasses the territorial and high seas.⁴¹ Tonga still affirms its claim on Minerva Reef, thus creating tension between the two countries' maritime boundary negotiations.

Geographically, North and South Minerva Reef are, approximately, 18 nautical miles apart or a little more than 165 nautical miles from the nearest Tongan islands. Furthermore, measurements of distance provided by NIWA expert state that the distance to Tonga from Minerva is 189 nautical miles. Anthony Legge, on the other hand, measured the positioning related to Minerva Reef as Nuku'alofa/Tonga - latitude 21° 09'S, longitude 175° 16'W and Suva/Fiji - latitude 18° 08'S, longitude 178° 27'E.⁴² There is a difference of 3° 01' E in latitude from Suva (the capital city of Fiji) and 3° 11'

³⁸ Fiji Government, "Media Release: Minerva Reef is within Fiji's EEZ," *Foreign Affairs*, 2011. Accessed July 16, 2016: <http://www.foreignaffairs.gov.fj/mediareources/media-release/335-minerva-reef-is-within-fijis-eez>

³⁹ Fifita, "Enhancing Tonga's Maritime Security."

⁴⁰ W.R. Smith, "Limits in the Sea," *Bureau of Intelligence & Research of Department of State* (1984): 10.

⁴¹ Foreign Affairs, Media Release - Minerva Reef is within Fiji's EEZ, 2011, Fiji Government. Accessed July 16, 2016: <http://www.foreignaffairs.gov.fj/media-resources/media-release/335-minerva-reef-is-within-fijis-eez>

⁴² Anthony J. Legge, email message to author on June 6, 2017.

L W in longitude from Nukualofa. In view of both countries' close proximity to Minerva Reef, the most suitable solution would be to apply the rule of "line of equidistance," which is "a strict line of equidistance based on two islands from each territory,"⁴³ as reflected in Fiji's Ceva-i-Ra case. The features of these islands must meet the terms defined in Article 121 of UNCLOS. A case example of "line of equidistance" was applied in Vanuatu's Hunter Island and Fiji's Ceva-i-Ra due to an existing Sovereignty dispute between Vanuatu and France on behalf of New Caledonia.⁴⁴

Tonga re-asserted its jurisdiction under Article 15 of UNCLOS when it constructed an artificial island and installed navigational beacons on North and South Minerva Reef in 2011. It was widely reported in the media that Fiji responded by destroying the beacons in early May 2011. Quoting Fiji intelligence sources, the media reported that three Fiji naval ships had been dispatched from Suva, the capital city of Fiji, to Minerva Reef. The action on Minerva Reef by Tonga and Fiji triggered regional and international interests again despite claims filed by both countries with the UN. New Zealand aligned with Tonga's position as submitted to the UN.

Fiji's Act

Fiji's act to destroy the beacons Tonga had built on Minerva Reef in 2011 triggered a new confrontation under Bainimarama's watch. Fiji's action was attributed to Roko Ului's escape to Minerva Reef.⁴⁵ Roko Ului, an indigenous Fijian of noble birth, was one of four senior officers in the Fiji Military who had assisted Commodore Voreqe Bainimarama in the overthrow of Prime Minister Laisenia Qarase's elected government in Fiji on December 5, 2006. Roko Ului, had informed Pesi Fonua, editor of the *Matangi Tonga* news media, only one senior military officer out of four had remained loyal to Bainimarama who no longer listened to the Fiji military for counsel. Roko Ului admitted, and reiterated to Fonua, what they had done during 2006 coup d'état, was illegal. Roko Ului then made the situation more complex. His escape to Tonga was timely, when he floated on a punt into Minerva Reef in early May 2011. Roko Ului was spotted and rescued on May 13, 2011 by a Tongan naval vessel performing its routine maritime rounds on Minerva Reef. This reignited the ancient connections between Tonga and Fiji. This event heightened the dispute over Minerva Reef. The reality soon became clear when Bainimarama's demand for Tonga to send Roko Ului back to Fiji to face trumped-up sedition charges was to no avail.⁴⁶

Tonga's Acting Attorney-General, Samiu Vaipulu, described the application papers from Bainimarama's regime to extradite Roko Ului as a "large box," adding that it would take time to sort

⁴³ USBIR, Bureau of Intelligence. *U.S. Department of State*. Accessed July 20, 2016: <http://state.ov/s/inr>

⁴⁴ Victor Prescott, Grant Boyes, "Maritime Briefing: Undelimited Maritime Boundaries in the Pacific Ocean Excluding the Asian Rim," *International Boundaries Research* 2:8 (2000): 28–29.

⁴⁵ Alex Perrottet, "Tonga accuses Fiji of vandalism of 'innocent' Minerva Reef Beacon," *Pacific Media*, May 25, 2011. Accessed October 10, 2017: <http://pacific.scoop.co.nz/2011/05/tonga-accuses-fiji-of-vandalism-of-innocent-minerva-reef-beacon/>

⁴⁶ Fiji Live, "State Considers Roko Ului Extradition," May 8, 2014. Accessed October 30, 2017: <http://fijilive.com/fijilive-print-story.Fijilive?57545.Fijilive>

through, but they were not in a hurry.⁴⁷ News filtered through that revealed divisions within Fiji's military elite and the Bainimarama regime.

Tonga Matangi News had recorded Roko Ului's comments; "Myself and Pita Driti are both senior military officers and our case should be heard in a military tribunal, but of course Commodore Bainimarama doesn't want that to happen ... advised that we should be tried in a civilian court."⁴⁸

Despite this exchange of words, which exacerbated the dispute, the King of Tonga remained steadfast, asserting his authority, while giving Roko Ului safe haven in Tonga.

Evidently, this incident reaffirmed Roko Ului's close link to the King of Tonga, as one of noble birth and close kinship with Tonga and Fiji. It is evident that no amount of threat from Bainimarama was going to intimidate Tonga. To date, Roko Ului remains in Tonga, holding a key position as a government advisor.

Roko Ului's getaway via Minerva Reef was a strategic move to avoid trumped-up sedition charges. The Fiji Military Council, made up of senior military officers who executed the 2006 coup d'état with Bainimarama, had begun to question some of the motives and decisions that the Bainimarama regime had made toward the end of 2007 and early 2008. They were unhappy with the outcome of Bainimarama's 2006 coup d'état, as it had deviated from its original plan.

Further evidence of Tonga's response to Bainimarama's demand can be gleaned from a controversial piece that appeared in the *Kanivatonga Tongan Daily News* in July 2014.⁴⁹ It revealed a proposal by Lord Ma'afu Tukui Faulahi, Tonga's Land Minister, who wanted Lau in Fiji, the birthplace of Roko Ului, in exchange for Minerva Reef. Iliesa Tora, a journalist of indigenous Fijian descent based in Tonga, was criticized for this piece by Tongan scholars, who claimed he was spreading untruths. Whether the intent of the Tongan scholars' comments were mischief or otherwise, speeches made on both the Tongan and Fiji side reflected deep-seated tensions. The *Tongan Daily News* recorded comments by Amena Yauvoli, Fiji's Secretary of Foreign Affairs, iterating that Fiji would have to wait for Tonga's proposal.⁵⁰ A Tongan academic, Teena Pulu, questioned why media was spreading lies that Tonga will give up Minerva Reef and take Lau, Fiji Roko Ului's birthplace. It appears Ms. Pulu herself was unfamiliar with the historical links between Tonga and Lau/Fiji, where Roko Ului hails from.⁵¹ The Fiji-Tonga dispute has reached a stalemate. Roko Ului, son of Ratu Mara, the third *Tui Lau* and former Prime Minister of Fiji, still remains in Tonga, despite the Fiji regime's attempts to have him extradited. Roko Ului has strong blood ties to Tonga's Royal Family. This acts as leverage in his favour, which makes it less likely for Tonga to repatriate Roko Ului back to Fiji. The strong kinship and bond

⁴⁷ Fiji Village, "Full Interview with PM Bainimarama," May 26, 2011. Accessed November 25, 2017: <http://fijivillage.com/news/I-am-not-getting-700000-Full-Interview-with-PM-sr9k52/>

⁴⁸ Matangitonga, "Roko Ului Tevita Mara, Escape via Minerva Reef," Anonymous interview with *Tonga Matangi News*, May 27, 2011. Accessed October 10, 2017: <https://matangitonga.to/2011/05/27/mara-seeks-united-proaction-opposition-bainimaramas-regime>

⁴⁹ Kalino Latu, "Tonga Seeks Ownership Fiji's Lau Group," *Kanivatonga Tongan Media Daily News*, July 5, 2014. Accessed November 25, 2017: <http://kanivatonga.nz/2014/07/tonga-seeks-ownership-fijis-lau-group/>

⁵⁰ *Tonga Daily News*, July 3, 2014. Accessed November 25, 2017: <http://www.tongadailynews.to/?p=7156>

⁵¹ Teena Brown Pulu, "Geopolitical Storymaking About Tonga and Fiji: How media fooled people to believe Ma'afu wanted Lau," *Te Kaharoa*, July 7, 2014. Accessed 29 September, 2017: <http://www.tekaharoa.com>

is the “Pacific Way,” earlier coined by Ratu Mara. It is an indigenous protocol that exists within the Pacific Islands communities in Oceania.

Revisiting the UN

The Tonga-Fiji standoff forced both countries to rearticulate their claims with the UN. In 1994, the UN introduced its legal framework for ocean management under UNCLOS. Fiji was one of the first countries to sign and ratify the convention. UNCLOS basically defines clear demarcation zones of sovereignty and jurisdiction for coastal states and allows states disputing borders and boundaries to present their case to the Arbitration Panel in The Hague, The Netherlands, under the UNCLOS framework.

In 1993, Simmons published his first publication on Minerva Reef, a year before UNCLOS came into effect.⁵² Simmons’ second edition of the book was released in 1998.⁵³ Both books give factual accounts of what transpired, highlighting interesting details of the early events that unfolded on Minerva Reef.

On closer scrutiny, the question of ownership of these atolls, reef and borders quickly springs to mind. To some, reefs and atolls comprise rocks, patches of sand, coral and ocean. But to Tonga, Fiji and New Zealand, the Minerva Reef affair relates to sovereignty over extensive marine resource, their protection, and dominion over large tracts of territorial sea.

To comprehend the border and ownership issues on a micro-level, I looked at the “doctrine of appropriation.” This, in my mind, will supplement the explanation given in UNCLOS. Could it be argued that Tonga, out of the three coastal States, had appropriated the Minerva Reef first? What about the Maori in Aotearoa, New Zealand? Did they, like the indigenous Fijians, use the area as “qoliqoli” for subsistence fishing and seafood gathering in earlier times too, seeing as Kermadec is 286 nautical miles away from Minerva Reef?

NIWA experts described Fiji’s location as 171 nautical miles from Minerva Reef; while Tonga is 189 nautical miles from Minerva Reef. The difference [between Fiji and Tonga] is 18 nautical miles. NIWA further stated; “Minerva Reef [is] inside the Fiji 200-nautical mile Exclusive Economic Zone (EEZ) and the reefs are 11.5 nautical miles to the west (Fiji side) from the theoretical median line that separates the Fiji and Tonga 200-mile EEZ. The reefs are part of the Lau Ridge which is an underwater ridge that connects the Lau Islands on Fiji to New Zealand’s North Island Coromandel Peninsula.”⁵⁴

In my search for answers, I sent an email to a legal expert on the “doctrine of appropriation”⁵⁵ and I was fortunate to get a reply, indicating his studies were more on fresh-water. He did emphasize that the doctrine of appropriation was tailored to the area of research he had conducted. It still gave some clues, however, to understanding the concept of “doctrine of appropriation.” Saxoswsky argues:

⁵² Simmons, *Castaway in Paradise*, 183–184.

⁵³ Ibid.

⁵⁴ K. Mackay and P. Barnes, “NIWA: Minerva Coordinates/Distance,” email message to author, September 1, 2017.

⁵⁵ David Saxowsky, “Prior Appropriation and Riparian Rights over Water,” January 19, 2011. Accessed August 5, 2016: <https://www.ndsu.edu/pubweb/~saxowsky/aglawtextbk/chapters/waterlaw/PriorAppro1.html>

that the riparian or prior appropriation doctrines have been applied in order for nations to resolve such disputes, both in the past and today. From a non-legal practitioner point of view, the terms riparian doctrine and prior appropriation doctrine, both affirm the “first user” element. Saxoswsky argues: that there are parallels here with other legal traditions: “The legal doctrine of other nations are similar to prior appropriation; restated, the law in other nations protects the first users.”⁵⁶

Whilst Saxowsky had used his analysis in a U.S. context to determine ownership of streams or river waters between adjoining land, his work sheds some light onto the crucial importance granted understandings of the terms “ownership” and “first user.” Notably, some aspects do resonate with the question of who owns Minerva Reef. With this additional information, the maritime claims by both Tonga and Fiji on Minerva Reef, with reference to the case of China and the Philippines in the South China Seas, ought to be examined and tested on its own merit.

Indigenous Eyes

To understand the Indigenous concept of connections at a deeper level between Tonga and Fiji, I opted to consult John Burrows of the University of Victoria, Canada, a legal expert on Indigenous Law. Being of indigenous extraction, his views ought to be considered in the discussions on Minerva Reef. Burrows argues:

People should be free to share and appropriately choose their community’s practices and to follow the values that underlie those practices. As long as citizens are secure in their fundamental rights and freedoms, they should be entitled to live by their choices, customs and traditions. Forced association, on the other hand, can inhibit an individual’s potential for self fulfillment. Democracy is enhanced when people can choose the rules and traditions under which they live.⁵⁷

As an indigenous Fijian writer, researching the dispute over Minerva Reef between Tonga and Fiji, legal professor John Burrows’ views have struck a chord with me.

The common ocean border, the close proximity shared by Tonga and Fiji on Minerva Reef, and the question of ownership are complex issues. The answer lies in examining the details in the Spirit of Minerva Reef, Indigenous peoples, chiefly connections, kinship, the issue of sovereignty, coordinates, distance, the Law of Sea, ocean marine spaces, resources and more. It involves indigenous people, who use Minerva Reef for subsistence seafood gathering to sustain families or the wider village community. This is known in the Fijian language as “*Qoliqoli, se nai kanakana*” given to those who belong to a given district, *Mataqali, Yavusa, Vanua* or tribe in the indigenous Fijian sense. To ensure

⁵⁶ Ibid.

⁵⁷ John Burrows, “Indigenous Legal Traditions in Canada,” *Washington University Journal of Law & Policy* 19:1 (2005). Accessed June 9, 2017: http://openscholarship.wustl.edu/law_journal_law_policy/vol19/iss1/13

outcomes are robust and thorough, experts sharing their views ought to speak to such historical and indigenous factors.

The late Epeli Hau'ofa described Oceania peoples as “Ocean in Us.”⁵⁸ Border interaction has increased and been made easy today with modern technology. This too has forced a shift in our narratives as Oceania peoples. The debates about Minerva Reef appear to be just another Pacific/Oceania story that can be viewed as a mere “legend of a lost civilization” in Oceania. Although such stories have captured the imaginations of many, new scientific evidence⁵⁹ confirms the existence of ancient civilizations in these islands, interconnected through trade via the vast ocean seafarers using canoes. The recent geo-political posturing that the Pacific Ocean is part or connected to the Indian Ocean does not sit well for many indigenous Pacific Island scholars within Oceania. What evidence is there to show that the Pacific Islands are part of the Indian Ocean?

The indigenous peoples of the islands bordering on Minerva Reef ought to be given a fair chance at self-determination and to engage in dialogue that defines their ocean boundaries and not be bullied in accepting terms or concepts imposed on them by foreign entities.

Border crossing amongst the indigenous people of Oceania, as gleaned from the “Rapa nui study” – study of the ancient inhabitants of the Easter Island — is far from being uncommon.⁶⁰ In ancient times, the indigenous peoples of these islands used sophisticated, state of art double-hulled canoes to navigate across the Pacific Ocean in seafaring ventures and to trade with one another. Canoeing was a mode of travel that connected these islands and related peoples in far off shores within the region. Hau'ofa argued for the development of a “substantial regional identity anchored in a common inheritance of a very considerable portion of earth’s largest body of water, the Pacific Ocean”⁶¹ of which Oceania peoples belong. Scouring vast blue Pacific Ocean within Oceania in canoes by the natives of these islands, added to their quest in the spirit of exploration. Minerva Reef would have been part of this narrative.

The Oceanian Way

We can say, the “Ocean is us;” we are the ocean people of Oceania. As a point of interest, a Tongan artist living in New Zealand created an art piece reliving the memories of Tongan skipper, Tevita Fifita and his men from Tonga stranded on Minerva Reef. The artist created a Facebook page in memory of this event. The Tongans, from resources accessed for this article, appear to openly signal their close affinity to Minerva Reef. The indigenous Fijians are more silent on this topic, yet are quite aware of its significance to neighboring Fiji islands. Both Tongans and Fijians⁶² display their

⁵⁸ Epeli Hau'ofa, “The Ocean is Us,” *The Contemporary Pacific* 10:2 (1998): 391–410.

⁵⁹ Ann Gibbons, “‘Game-changing’ Study Suggests First Polynesians Voyaged All the Way from East Asia,” *Science*, October 3, 2016. Accessed December 15, 2016: <https://www.sciencemag.org/news/2016/10/game-changing-study-suggests-first-polynesians-voyaged-all-way-east-asia>

⁶⁰ Goldberg, “The Lost World of the Pacific.”

⁶¹ Hau'ofa, “Ocean in Us,” 391–410.

⁶² Indigenous peoples of Fiji as noted before re-classification of Identity of Fiji Citizens post 2006 Coup.

connections through art, songs, poems and stories that directly link them to Minerva Reef. The indigenous Fijian people are more inclined to relate their stories and experiences about Minerva Reef via story-telling, *tukuni* or myths. The evidence is noted, when Tevita Fifita and members of his Tongan crew sought refuge on Kadavu Island, in Fiji, after having lived for fourteen days on Minerva Reef. However, if opportunities were given, those living in the southernmost part of Ono-i-Lau near Minerva Reef and Kadavu Islands or “Small New Zealand (*Niu Siladi lailai* in the Fijian language),” may have similar stories that are better presented orally.

In conducting this research, very little was found in written materials from indigenous Fijian people’s interaction with Minerva Reef when compared to Tongans. Perhaps, this is due to indigenous Fijians having their oral cultures and heritage as inherent and deeply embedded in them.

Based on the Tongan crews’ experience on Minerva Reef and their effort to survive by sheltering in the wreckage of a Japanese ship for fourteen days, the Tongans could validate their claim to Minerva Reef. As the report stated, the Tongan sailors used their skills and workmanship to construct a boat from the remains of the Japanese ship. Fine Feuiaki, one of the surviving Tongan sailors recalled: “...we went diving where Tuaikaepau struck the reef... and [fellow sailor] Soaki Pulu found one of the bush knives we had in the boat. We took the knife back to the Japanese wreck and it was used to cut the mast of the Japanese ship. This mast was used as an outrigger for the small [boat] we built.”⁶³

The men’s location on Minerva Reef indicated “260 miles southwest of Tonga Islands in the most remote part of the entire South Pacific far from the usual shipping and air routes.”⁶⁴ From this vantage point, three of the Tongan crew managed to get across from Minerva Reef to Fiji on the boat they built. Why did they sail to Fiji and not Tonga? The answer to this is vague.

Evidently, there is crisscrossing of interactions between Tonga and Fiji for those passing through Minerva Reef. Yachters commonly use Minerva Reef as a stopover, but for locals from Fiji and Tonga, they use the area for subsistence fishing. One thing is certain: the question of security of borders, the distinct zones of sovereignty and jurisdiction for coastal states in the region, including but not limited to marine resource protection, the territorial sea and the EEZ are crucial topics to be further researched.

Border Control

Border control in the Pacific in ancient times when compared to today has shifted. Border control and documentation were non-existent in ancient times. Pacific regional identity formed in earlier times by native Pacific Island ancestors attained through warfare, trade, culture, intermarriage and linguistic heritage still have some relevance at the subaltern level. Today, voyaging by canoes to forge closer ties with island neighbors and formalize island borders points to the importance of historical links.

⁶³ Feuiaki, “Hakau Minerva,” 10.

⁶⁴ Simmons, *Castaway in Paradise*, 183–184.

To instill a stronger sense of belonging, identity and sovereignty, the Oceania peoples of have re-introduced canoe/takia/waka voyaging, and planned other activities related to language, sport, art, cultural festivals, emblems, flags, totems, signage and more. Critics, like the late Epeli Hau'ofa, argued that the intent of such events to forge closer ties today were more “for the sake of sustained regional cooperation” than for the indigenous Oceania peoples themselves.⁶⁵ He has a point. Hau'ofa further asserts that “these attempts have foundered on the reef of our diversity, and on the requirements of international geopolitics, combined with assertions of narrow national self-interests on the part of our individual countries”⁶⁶ and politics of the day. In short, Hau'ofa's lamentations suggest that closer integration in the region includes partial surrender to external forces. While the islanders are still trying to adapt to the Western style concept of doing business, there are other stronger forces penetrating the islanders' “Pacific Way,” leaving them ill-prepared for the upsurge of foreign influence.

Today, there are newer foreign interests rarely seen in the region, pouring in aid money to influence how things are done in the Pacific. There is fear among the indigenous peoples of Tonga and Fiji. Fiji's post-2006 coup d'état through to 2018, with same actors at the helm, is an example of a shift in a style of leadership, never seen before. Fiji's Look North Policy during this period, with the same actors, has heightened the concerns for these locals. This is a topic for another paper.

The Fiji regime is a totalitarian one. The upsurge of organized syndicates in drug smuggling using Pacific Islands as a transfer point is new. Whether these exchanges are occurring at Minerva Reef, is yet to be known. Fiji and Tonga to a lesser degree have been flagged as entry points for some of these syndicates, as well as in the trafficking of small arms and the child-sex trade. This has raised concerns over security and maritime surveillance of the area and the region.

The debates on Minerva Reef have intensified tensions in the region, more so between Tonga and Fiji than with New Zealand's Kermadec Islands. The spirit of interconnectedness amongst these island peoples, with their ocean borders that have existed since ancient times, appears to be dissipating. In its place, political and state actors and civil society groups are engaging in bilateral and/or multi lateral deals with external powers far beyond the regional borders, in exchange for cheque-book diplomacy. This is a subject that needs closer scrutiny. I am reminded by David Newman's piece on the “notion of difference” which duly reflects on the contrast of foreigners and local that exists within these islands and thus forms the notion of border.⁶⁷ David Newman's point that “they [outside influence] are part of the socialization process through which the images of ‘us’ and ‘them’ become part of the cultural, social and political imaginations”⁶⁸ is a topic for further research. Such are the mobility of peoples in the Pacific which indigenous Pacific islanders in Oceania has to grapple with.

⁶⁵ Hau'ofa, “The Ocean in Us,” 391–410.

⁶⁶ Ibid.

⁶⁷ David Newman, “On Borders and Power: A Theoretical Framework,” *Journal of Borderland Studies* 18:1 (2003): 13–25. Accessed 24 February, 2017: <http://dx.doi.org/10.1080/08865655.2003.9695598>

⁶⁸ Ibid.

New Zealand and Australia

Today, the movement of peoples in the Pacific/Oceania region comes in many different shades, despite the smallness of the islands populations. Unfortunately, this movement has brought within it an increase in social problems, with child trafficking, missing young people, small arms and drug smuggling, all taking place and being exchanged in yachts in the Pacific Ocean. Fiji birth certificates and passport scams have been tracked to Pakistan, India and the Middle East, as reported in Fiji news media.⁶⁹

Historically, New Zealand was considered an outpost of the British Empire. Over time, this has changed. Today, New Zealand remains steadfast in its support and has strengthened ties with Tonga, Fiji and other Pacific Island states and territories despite their cooling of relations with Fiji post-2006 coup through to September 2014 when Fiji held its election. Critics have argued that Fiji's 2014 election was rigged, as the same 2006 coup actors designed the way the election ought to go.⁷⁰

Interwoven into the New Zealand reality of being a regional neighbor, is its close proximity to Minerva Reef. Within its territorial waters and borders, New Zealand shares a trench within its continental shelf where Minerva Reef sits. In addition, New Zealand's offshore patrol vessels routinely visit the Pacific Islands as part of their defense diplomacy.

On February 21, 2016, "Less than 24 hours after cyclone [Winston] struck Fiji [February 20, 2016], an Air Force P-3K2 Orion surveillance aircraft conducted aerial surveys..." The Royal New Zealand Air Force was the first to set foot on Fijian soil, a day after the devastating winds of Cyclone Winston, which destroyed many homes, schools and villages in the rural outlying islands in Fiji.⁷¹ New Zealand, through its development and humanitarian relief programs has been consistent in its ongoing support. New Zealand has promoted and built robust relations through cultural, economic and political ties with Tonga and Fiji, as well as other Pacific Island countries, despite the tensions between Tonga and Fiji.

However, some Pacific Island scholars remain critical and assert there is an existing disconnect in the Region. There has been an increase in external influences of funders within and outside Oceania. The two middle powers, New Zealand and Australia, are the main funders within the region and appear to be in competition with others outside the region. State actors and non-state actors from these island states are opting for lucrative money deals beyond Oceania.

Jenny Bryant-Tokelau argued that "poor governance, as perceived by donors and regional Pacific organizations, may have been avoided if more attention had been paid to local [indigenous]

⁶⁹ Australian Government, "Fiji Times in Country Advice, Fiji – FJ136197- Passport scams – Indian nationals – Legal Proceedings," March 11, 2010, 1–9. Accessed March 24, 2016: www.refworld.org/pdfid/4f141f8a2.pdf

⁷⁰ Interview with Fiji Truth Researchers, Viti Noqu Viti: Truly Fijian Voices, Na Dina-Fiji Truth Movement, October 10, 2016.

⁷¹ New Zealand Defense Force, "Fiji Mission one of NZDF's Largest Peacetime Deployments to Pacific," February 29, 2016. Accessed March 24, 2017: <http://nzdf.mil.nz/news/media-releases/2016/20160229-fmofnzdfpdp.htm>

knowledge and practice,”⁷² which is an ideal solution. Bryant-Tokelau, for example, reiterated that the manner of interactions between states and NGOs often run counter to indigenous notions of hierarchy, leadership, land tenure, and kinship structure. This complex reality provides a snapshot of what is occurring on the ground. The political debate over the “Pacific Way” in Oceania now appears to be overtaken by new ideological thinking that has penetrated the very core of the Pacific Island peoples, society, and community at several levels. Bryant-Tokelau has challenged researchers with the truth of what is now a reality. It is crucial that future researchers take note and grasp the intricate detail that makes the Pacific border conversation even more challenging.

Furthermore, Stephen Levine points out that larger states have mostly ignored Pacific Island Nations, the exception, being when they needed their votes at the UN or other international bodies.⁷³ There is, however, the added dimension of New Zealand being naturally situated within the Polynesia sub-region of which Tonga is a part. This means there is some degrees of open border agreement. The Cook Islands have free associations which allow residents of these islands to become New Zealand citizens. Tokelau remains a dependent territory of New Zealand, whereas Samoa gained independence in 1962 after being under New Zealand rule since 1920. New Zealand also introduced a border policy for a Pacific quota, which allows people from Tonga, Fiji, Kiribati, and Tuvalu to register on the New Zealand immigration website. If a candidate becomes successful, he/she could apply for permanent residency in New Zealand. Other Pacific Islands from the Melanesia sub-regions have very limited open-border immigration policy or visa-waiver arrangements with either New Zealand or Australia. Scholars from the Arc of Melanesia have argued that trade between New Zealand and Pacific Islands is more than some of the remote European countries with which New Zealand has open border/visa free access.⁷⁴ According to the New Zealand Ministry Foreign of Affairs and Trade, for example, a total of \$472 million NZD account for New Zealand’s exports to Fiji for the year 2016.⁷⁵ Scholars from this sub-region posit that the issue of visa waivers ought to be re-examined in light of the close trade relationship New Zealand and Australia have with the island States of Oceania.

New Geopolitics

Geopolitics in the region and a new wave of thinking to end the impasse between Tonga and Fiji over Minerva Reef remain on the agenda. Critics affirm that there exist an ideological swing which impacts dialogue when talking about the Pacific. Citing the Minerva Reef dispute as a case in point, newer language or terms, commonly found in academia in both Australia and New Zealand – for

⁷² Jenny J. Bryant-Tokelau, “From Summitry To Panarchy: Issues of Global, Regional and Indigenous Environmental Governance in the Pacific,” *Borderlands* (e-journal) 7:3 (2008). Accessed January 4, 2019: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.514.7659&rep=rep1&type=pdf>

⁷³ Levine, “Pacific Ways,” 1–13.

⁷⁴ Arc of Melanesia Scholars & Academic Forum, “Melanesia: Arc of Stability,” July 25, 2016. Accessed October 10, 2016: <https://www.facebook.com/ArcOfMelanesia>

⁷⁵ NZ Trade MFAT, “Our relationship with Fiji,” December, 2017. Accessed 25 December 25, 2017: <https://www.mfat.govt.nz/en/countries-and-regions/pacific/fiji/#Trade>

example, those who prefer to be identified as being “at the rim” rather than “in the rim,”⁷⁶ reflect societal gaps. The geo-location of the Minerva Reef, the question of sovereign and territorial seas around Tonga and Fiji, and the recent upsurge of newer foreign interests into Oceania, such as Russia, Pakistan, China, India, Indonesia and Arab countries, have created a potent mix for these small Pacific Island states. Does this pose a threat to those who claim to be “outside the rim”? Future research is needed to examine the cross-border Pacific conflicts and politics in the region for the sake of regional security.

Perhaps, the Pacific Island States in the Region could draw on hope and align with the United States’ position on “Adherence to International Law and Standards,” which defines and promotes a rules-based system crucial for peace, stability, and prosperity within the region.⁷⁷ Whilst the core U.S. focus is Asia, particularly within the South and East China Seas, to ensure open shipping lanes, the Minerva Reef saga in the Pacific is no different. The presence of the United States in the Micronesia sub-region, and U.S. Security posts in Australia, does strengthen security protection in the wider Region. However, the United States, while it upholds UNCLOS, which stipulates, “customary international law with respect to traditional uses of the ocean,” is yet to fully endorse it. The United States, through the Department of Defense, has endeavored to collaborate with interagency partners, regional institutions, and regional allies and partners to safeguard the rule of law against force and coercion. Although the scenario of Minerva Reef is on a minute scale when compared to the South and East China Seas, the principles, however, are the same.

Conclusion

The issues surrounding the dispute over Minerva Reef are complex. In this paper, Indigenous Customary Rights, or *qoliqoli*, were contrasted with Western-derived concepts of sovereignty which reflect economic and territorial thinking. The results of this analysis and research point toward the need for a much deeper dialogue between Tonga and Fiji, as well as New Zealand. The calculated distances and the coordinates given do assist readers in visualizing, however incompletely, the geo-location of Minerva Reef from the three countries. However, these data are inconclusive on their own.

To get a better grip of the Minerva Reef saga and the issue of borderlands and geo-political dynamics which exists, it is important to look at the indigenous history of both Tonga and Fiji. This is a period that extends beyond the Colonization era. The emergence of British influence in the Pacific post-1874, studies by the United States, and the adoption of UNCLOS in the 1970s saw a shift in indigenous understandings of ocean boundaries. Were these geared towards an economic understanding?

⁷⁶ Elisapeci Samanunu Waqanivala, *Is Hegemony Possible in the Pacific?* (Wellington New Zealand: Research Archive, Victoria University, 2015).

⁷⁷ U.S. Defense, “The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives in a Changing Environment,” *Asia-Pacific Maritime Security Strategy*, July 27, 2015. Accessed July 25 2016: http://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-

Minerva Reef borders on Tonga, New Zealand and Fiji; the trench that stretches in the ocean floor connects the three countries at the Tonga-Kermadec-Lau Basin arc.

The indigenous peoples of these three island countries in Oceania use Minerva Reef as their common fishing ground to feed their families and communities. From an indigenous perspective, it is, inadequate to merely apply UNCLOS. Indigenous Law ought to be factored-in when determining the boundaries of Minerva Reef. Embedded in UNCLOS is the clause related to the traditional uses of the ocean. The use of new language and concepts that may be foreign to ocean peoples, especially in the case of Minerva Reef, must converge and/or also reflect the viewpoints of those affected in decisions made.

The issue of sovereignty and territorial seas covering the Minerva Reef between Fiji and Tonga requires careful handling, in particular, with newer and foreign interests in the region pushing their agenda through with little consideration for the “first user” of Minerva Reef and of its surrounding ocean space.

The resurgence of regional border security needs to be emphasized, more so because drug smuggling and small arms exchanges are now a concern in Oceania.

Minerva Reef is a micro-version of the ongoing border, political, economic and cultural/sovereignty debate that is affecting coastal states in Oceania. The dispute between Tonga and Fiji as to the ownership of Minerva Reef will continue unless leaders on both sides acknowledge the deeply embedded historical relationship between Tonga and Fiji, and take greater account of New Zealand.