

THE POLITICS OF ASSOCIATION: A COMPARATIVE ANALYSIS OF NEW ZEALAND AND UNITED STATES APPROACHES TO FREE ASSOCIATION WITH PACIFIC ISLAND STATES

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This article compares and contrasts the workings of the free association relationship New Zealand has with the Cook Islands and Niue, and the US with the Federated States of Micronesia, the Marshall Islands and Palau. A number of important differences are noted relating to such issues as the ease with which the relationship can be terminated (much easier in the New Zealand case), the extent of economic assistance and control of foreign and defence policy (much greater for the US) and the crucial issue of citizenship (which New Zealand grants, but the US does not).

Cet article permet à l'auteur d'établir une comparaison entre les relations nées du statut d'Etats associés existant entre la Nouvelle Zélande et les Iles Cook avec celles en vigueur entre les Etats Unis d'Amérique et la Micronésie, les Iles Marshall et Palau.

Quelques différences fondamentales sont analysées comme par exemple la manière dont il peut être mis un terme aux les relations particulières instaurées entre ces pays, le constat tournant à l'avantage de la Nouvelle Zélande plus libérale dans ce domaine, l'entendue des aides commerciales accordées ou en matière de défense par chacune des puissances tutélaires, les Etats Unis se montrant ici plus actifs que la Nouvelle Zélande ou encore la question fondamentale de la citoyenneté que la Nouvelle Zélande octroie aux citoyens des Cook, mais que les Etats Unis refusent aux habitants des Etats associés de Micronésie, des Iles Marshall et de Palau.

I INTRODUCTION

Ideally the choice of 'Free Association' provides the best of both worlds for small island states – political self-government and the economic and strategic security of remaining associated with a larger country. This paper seeks to explore how the relationship has worked in practice. The case studies examined are New Zealand's relationship with the self-governing Polynesian states of the Cook Islands and Niue, and US ties with the Freely Associated

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States (FAS) of the Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI).¹ (The term 'FAS' will be used to apply to all four cases). The analysis is timely, as the economic aspects of the compact governing the U. S. relationship between the FSM and RMI are being re-negotiated for a further fifteen-year term. Negotiations must be completed by 2003. (Palau, whose compact is not up for re-negotiation, is not considered in this paper). A New Zealand and Niue joint consultative group has also been reassessing the nature of the two countries' relationship, while the Cook Islands-New Zealand connection has continued to evolve to the extent that the Cook Islands claim the status of an independent state while retaining the benefits of New Zealand citizenship.

The comparison between the US and New Zealand is interesting because the relationship New Zealand worked out with its Polynesian possessions in the 1960s and early 1970s is said to have established the precedent for the US to follow in the 1980s in regard to its future relationship with Micronesian states (Leibowitz, 1989: 62, 501). However, this article will demonstrate that a quite different relationship has evolved. This is not surprising, given the massive difference in circumstances and responsibilities arising from the US superpower, and New Zealand's small state, status. Furthermore, the sizes of the island territories also differ. The RMI has a population of 52,000, and the FSM 152,000, compared with just 15,000 for the Cook Islands and 1,700 for Niue (Palau, with a population of 15,000, is closer in size to the Polynesian states).

This paper will first discuss the concept of 'free association'. The differing historical backgrounds of the island states making up the case studies will then be briefly surveyed. The US and New Zealand ties with their former island territories will then be covered under the headings of political, strategic, diplomatic and economic relations.

II DEFINING FREE ASSOCIATION

Robert Statham, an academic from the University of Guam with an interest in Pacific affairs, has shrewdly observed: 'Free association is a form of political status which is expressly intended to avoid self-government or independence while partially securing both.' He adds that free association is 'intended to provide smaller dependent political communities with sufficient autonomy to resemble independence without providing genuine independence, and to provide integration with a major political power, without actually securing complete unification and assimilation' (Statham, 2000). It developed in the post-World War II period under United Nations auspices as a means of encouraging small states to accept a greater degree of autonomy while retaining the assurance of continued financial support from the departing colonial power.

III HISTORICAL BACKGROUND

New Zealand took over responsibility for the administration of the Cook Islands and Niue from the United Kingdom in 1901. In the early 1960s New Zealand, eager to appease the growing anti-colonial sentiment of the United Nations, gave the Cook islands a number

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of alternatives for its future: independence, internal self-government while remaining in free association with New Zealand, political integration with New Zealand, or to be part of a Polynesian federation. The last choice was not really an option as no such federation existed. Self-government was chosen by the Legislative Assembly as the only realistic alternative, as it was feared that independence would lead to a reduction in New Zealand financial assistance. Integration with New Zealand was not encouraged, as it would raise questions about New Zealand's 'imperialist' motives. The Cook Islands became self-governing in free association with New Zealand in August 1965.

Niue was initially reluctant to follow the Cook Islands' example. Its small size made it more aware of its reliance on New Zealand's continued financial and administrative support. It agreed to self-government over the other two options of full independence or political integration with New Zealand on 19 October 1974, only after New Zealand had agreed to what must be a unique constitutional commitment to maintain economic support. Section 7 of the Constitution Act states: 'It shall be the continuing responsibility of the Government of New Zealand to provide necessary economic and administrative assistance to Niue.' In 2000-2001 a review of the relationship by New Zealand and Niue officials found an overwhelming desire by the Niue population to retain free association status. Few favoured the other options of political integration with New Zealand or full independence.

The Micronesian states have a much longer history of colonial rule. Before the US took over after the second World War, Micronesia had been subjected to rule by Spain (until 1899), Germany (until 1914) and Japan (until 1944). The US Navy administered the vast Micronesian territory until 1951, when responsibility was transferred to the U. S. Department of Interior.

The US faced a difficult dilemma. Its own anti-colonial history (the first colony to break from British rule) made it sensitive to charges of furthering its own brand of colonialism in Micronesia. On the other hand, there was reluctance by the US military to shed territory it had fought so hard and at such a great cost to gain from Japan in World War II. Initially the US was granted Micronesia as a Strategic Trust Territory by the United Nations. This was a unique relationship, which allowed the US to maintain armed forces in the Trust Territory and deny the entry of military force from any other nation. In 1965 moves to self-government were achieved with the establishment of a Congress of Micronesia. Subsequently the Marshall Islands and Palau (as well as the Northern Marianas) decided to break from the Congress and go their own way. The FSM and Marshall Islands entered a compact relationship with the US in 1986. In summary the compact agreement provided for economic assistance to the island states in return for allowing the US to preserve its security interests. Palau's compact was delayed until 1994 because of US objections to anti-nuclear clauses in Palau's constitution. The UN Security Council ended the Trusteeship relationship with the FSM and the Marshalls in December 1990.

The historical background explains the different nature of the ongoing relationship between the island states and the US and New Zealand. The primary interests of the US were strategic. It was determined to protect its strategic advantage but was prepared to give considerable economic assistance in return. For New Zealand, the concern was

diplomatic, relating primarily to the need to meet UN decolonisation requirements. It did not share the US strategic interests and remained relaxed about a move to greater independence by the Cook Islands and Niue, including full independence if either entity should choose it.

IV THE POLITICAL RELATIONSHIP

The contrast between the political nature of the New Zealand and US relationship with their Pacific Island FAS is highlighted by the difference between the formal documents outlining the nature of the relationship. In the case of New Zealand the defining documents are a 1973 two-and-a-half page letter from New Zealand Prime Minister, Norman Kirk, to the Cook Islands Premier, Albert Henry, and the latter's three paragraph acceptance of its contents (Cook Islands Government, 1998: 51-54). This is in stark contrast with the seventy-page detailed legal document, plus subsidiary agreements, which make up the Compact of Free Association between the United States and the FSM and RMI (US Congress, 1986). (The basic compact document is the same for both countries, although the subsidiary agreements differ). The parts of the compact of most interest to the island states relate to economic assistance, but are subject to renegotiation after 15 years.

The contrast in documents reflects the different political cultures. New Zealand, unlike the US, follows the British tradition of not having a formal written constitution. (It is interesting to note that New Zealand nevertheless insisted that both the Cook Islands and Niue have such a document). New Zealand is generally a much less litigious society. Hence the preference to work out the relationship through political understandings rather than legal documents. The amount of aid given is subject to ongoing political negotiations rather than legal agreements.

Both documents stress that the relationships have been freely entered into by the parties. In the case of the compact the agreement is made 'in accordance with the respective constitutional processes' of the US and the FAS. Kirk's 1973 letter described the relationship with the Cook Islands as a 'partnership, freely entered into and freely maintained', leaving the Cook Islands 'free to pursue their own policies and interests.' Kirk stressed: 'There are no legal fetters of any kind upon the freedom of the Cook Islands, which makes their own laws and control their own constitution' (Cook Islands Government, 1998: 51-54). The same applied to Niue. New Zealand no longer has the power nor the desire to make laws for either island country.

V HOW FREE?

A test of just how 'free' a FAS relationship is can be provided by asking whether the FAS state may end the relationship at a time of its choosing. In the case of the Cook Islands and Niue the continuation of the FAS status is entirely in their hands. The relationship can be ended by amending their respective constitutions. No action is required by New Zealand. A change to the constitution requires a two-thirds vote of parliament, with two votes taking place at an interval of at least 90 days between each vote. The change must then be supported by a referendum. The key point is that it is up to the Cook Islands and Niue alone to determine whether they want the free association with New Zealand to continue.

On the surface the US compact relationship is equally 'free'. The nature of the association requires the free choice of a state and its people to enter the relationship and the right subsequently to change the status (Leibowitz, 1989: 62). Under the terms of the compact FAS states must give six months' notice of their desire to end the relationship and have the decision ratified by a plebiscite. So, as in the case of the New Zealand-Cook Island and Niue relationship, unilateral termination is possible.

However, all is perhaps not what it seems. In the case of the compact termination does not mean the end. A large part of it remains in effect in any case (Leibowitz, 1989, 672). The compact provides that even after termination economic assistance may continue. Other defence provisions continue until the 50th anniversary of the agreement. Furthermore the strategic denial provisions – which enable the US to prevent military forces from other countries operating in the area – continue in perpetuity. In other words, it would seem that the compact states have got themselves into a relationship they cannot choose to end. As the foremost authority on the compact, Leibowitz concludes: 'as the security aspects require mutual agreement for termination, the strategic denial of the FAS is indefinite' (Leibowitz, 1989: 596 and 685).

VI CITIZENSHIP ISSUES

A major difference between the New Zealand and US relationship with their respective FAS is the issue of citizenship. Whereas the people of the Cook Islands and Niue are automatically New Zealand citizens, the FSM and RMI people have no right to claim US citizenship. However, FSM and RMI citizens have the right to travel, live, study and work in the US. The Compact explicitly, however, states that these rights may not be used for citizenship purposes.

Although the FSM and RMI rights of entry into the US are not one of the compact items formally required to be re-negotiated after 15 years, the US has given notice that it wishes to discuss the matter. While the basic right of access for FAS citizens to the US is likely to continue, the US has indicated that it will make greater use of existing grounds for inadmissibility, including health, criminal record and the likelihood of becoming a public charge.

Several important issues are related to the citizenship issue. This does provide an area which is clearly of direct concern to New Zealand. The 1973 Kirk letter noted the crucial importance of citizenship and observed that it was 'unusual for a state to extend its citizenship to people living in areas beyond the reach of its own laws.' Kirk added: 'The bond of citizenship does entail a degree of New Zealand involvement in Cook island affairs. This is reflected in the scale of New Zealand's response to your country's material needs; but it also creates an expectation that the Cook Islands will uphold, in respect of their laws and policies, a standard of values generally acceptable to New Zealanders' (Cook Islands Government, 1998: 51-54).

In other words, the Kirk letter gave notice that if Cook Islands laws violated New Zealand 'standards', New Zealand could use this as a reason for re-examining the relationship. There is a warning here that there are limits to which the Cook Islands can test New Zealand patience over issues such as allowing itself to be used as a tax haven or other questionable

'off-shore' financial transactions. The issue was highlighted by the 'wine-box' tax evasion controversy of the late 1990s, (so-called because the associated documents were kept in a wine carton), and more recently by accusations of money laundering. It is clearly not acceptable for New Zealand to support the Cook Islands with its taxpayers' funds, while the actions of the Cook Islands Government undermine the very source of revenue on which it depends.

The citizenship issue is also of crucial importance in Cook Island politics. Although Cook Islands politicians have from time to time fanned nationalistic fervour and been critical of the New Zealand ties, advocating an end to the special relationship would be political suicide. Cook Islanders and Niueans want above all else to protect their right of entry to New Zealand. About four times more Cook Islanders (60,000) and six times more Niueans (12,000) live in New Zealand than in the home islands. Many have used New Zealand as a means for eventually moving on to Australia.

There are also significant communities of Micronesians living in the US and its territories, although not nearly on the same scale as the Polynesian movement noted above. Significant Micronesian communities are formed in California, while about 15,000 Micronesians are resident in Hawaii, Guam and Saipan. These US jurisdictions have sought reimbursement from the US Federal government for health, housing and education costs. There is concern that a less generous renewed compact may significantly increase the numbers emigrating to the US. New Zealand has also had to meet the costs of migrants from the Cook Islands and Niue. Effectively it has meant a transfer of funds from foreign aid to welfare budgets.

These overseas communities remain important for the local economies because of the 'remittances' sent home to relatives by islanders living abroad. These have proved to be more significant in the case of Polynesia than Micronesia. There is a further link between the state of island economies and emigration. As the economic crisis and harsh economic reforms of the mid-1990s hit the Cook Islands, many of those who lost their jobs left for New Zealand. The population dropped dramatically, from 21,000 in 1995 to 15,000 in 2000, a decline of more than 25%. In January 2001 the population was estimated to be 14,300 (Cook Islands News, 29.1.2000). Migration from some of the outer islands has been more dramatic – for instance in Atiu from 1,477 in 1977 to just 623 in 2000, a drop of more than 50%.

Economic hardship has caused an even more severe decline in the case of Niue – from around 5,000 at the time of attaining self-government to 2,200 in the mid-1990s and a further drop to 1,857 in 2001 (*Niue Economic Review*, 8.2.2001). In both cases many of those leaving have skills vital to their island state's economic future. The population loss in the case of Niue is serious enough to call into question its future economic viability. For instance, the population is now too low to support a regular air service, vital to the tourist industry.

Indeed, depopulation may turn out to be the most devastating legacy left by the New Zealand-FAS relationship. It has not happened to the same extent in other Pacific islands because only Cook Islanders and Niueans have the automatic rights, as citizens, to enter New Zealand. But this privilege, the envy of other Pacific Islands, may turn out to be the curse of the relationship, as its consequences call into question the future viability of the

Cook Islands and Niue. The many empty houses which are a feature of each Niuean village are stark evidence of the trend towards an 'empty' country.

The citizenship issue has costs to the Cook Islands and Niue that extend beyond depopulation. To outsiders, the holding of New Zealand citizenship is the clearest indication that the two island countries are not 'independent'. The US-FAS arrangement might have provided a useful model for New Zealand to follow, as it protects the right of FAS nationals to enter, work, and be educated in the US without granting citizenship. If entry rights had been guaranteed along similar lines for Cook islanders, there may have been more support for moving towards 'independence', and the benefits in terms of international recognition and foreign aid that this could produce. But the political reality is that there can now be no turning back of the clock.

The 'independence' issue has been important in political and diplomatic terms for gaining membership of international organisations. In this regard the Micronesian states have been more successful. In addition to membership of the Pacific Island Forum, the Asian Development Bank, the World Bank and the IMF (which the Cook Islands has also attained), the FSM, RMI (and Palau) have gained membership of the UN. The Cook Islands has established a network of diplomatic relations with thirteen nations, and would very much like to achieve both UN and Commonwealth membership.

For the Cook Islands and Niue, even more important than United Nations membership is gaining access to the former Lomé Convention – the extensive aid funds provided by the European Union. In the early 1980s the Cook Islands was deemed to be not sufficiently independent to gain membership of the ACP-EU group. But it worked hard to reverse this decision, and succeeded in 2000, bringing along Niue, the FSM and the Marshall Islands, as well as Palau and Nauru, as a result.

VII FOREIGN POLICY

The Cook Islands' inability to gain membership of the UN seems unjust, given that, in practice, it can be argued that it exercises considerably more independence in its defence and foreign policy than both the FSM and RMI. This is a further case of the difference between formal legal positions and what occurs in practice. The compact affirms that the RMI and FSM 'have the capacity to conduct foreign affairs.' On the other hand, the Cook Islands and Niue constitutions give the responsibility for foreign affairs and defence to New Zealand, acting in consultation with the island premiers.

But in practice the situation is reversed. New Zealand does not seek to direct the foreign policies of the Cook Islands and Niue. Rather it has worked with them to help them project their 'international personality.' New Zealand acts for and on behalf of these island states in international affairs only when asked to do so by the island governments.

In marked contrast, while on the surface free to conduct their own foreign policy, the compact states agree (in terms specified in the compact) to 'refrain from actions which the government of the US determine, after appropriate consultations with the governments, to be incompatible with its authority and responsibility for security and defence matters.' In effect this provision gives the US veto power over aspects of foreign policy they consider to

have negative implications for US strategic interests. To complicate matters further, however, in practice the US has seldom sought to use these powers; nevertheless they exist. One recent and rare example was the US veto in February 2000 of a visit of naval vessels from Taiwan to the Marshall Islands. The US considered the visit violated its one China policy and was counter to its strategic interests (*Marshall Islands Journal*, 17.2.2001).

VIII DEFENCE AND SECURITY

The compact gives the US 'full authority and responsibility' for security and defence matters, including the 'obligation to defend' the FSM and RMI, the 'option (as the veto of the Taiwanese visit to the Marshall Islands demonstrated) to 'foreclose access.... by military personnel or for military purposes of any third country', and the 'option to establish and use military bases' (US Congress, 1986, Section 311). In other words, the US alone is responsible for the defence of the area, and has the right of 'strategic denial' – to exclude others from the region, and to establish bases as it sees fit. In formal terms these powers have been delegated by the FAS to the US. The US has accepted some limited restrictions, including a promise 'not to store or to use chemical weapons, nor any radioactive material' (US Congress, 1986, Section 314). As the US has taken full responsibility for security the compact states have no armed forces, although their citizens have the right to join the US military.

For the US by far its most significant strategic interest in Micronesia is the missile testing facility located in Kwajalein atoll in the Marshall Islands. As the US proceeds with plans to develop a national missile defence shield, the importance of Kwajalein will increase. But the US is insistent that Kwajalein is not part of the current compact re-negotiations, as the US has an automatic right of renewal of the lease for a further 15 years.

The end of the Cold War has severely limited the bargaining power of the Micronesian states in extracting maximum US economic assistance in return for meeting US strategic interests. The FSM has long been at a disadvantage in this regard, as it does not possess a strategic asset such as the Marshall's Kwajalein facility. The reality is that in 1986 the Cold War dominated US interests. In 2002 the Cold War is history. The situation could nevertheless change if a new cold war were to develop between China and the US. The strains in US-China relations that followed the inauguration of the new Bush administration will increase Micronesian bargaining power.

One deadly by-product of the height of the Cold War is the US agreement, formalised in the compact, to pay compensation to the Marshall Islands for damage – including long term health effects – caused by the US nuclear testing programme in the early 1950s. It remains an area of tension, as the funds provided by the US for compensation have fallen far short of the amounts awarded by the Nuclear Claims Tribunal.

The Cook Islands and Niue constitutions leave responsibility for defence in New Zealand hands. But in practice, as in foreign affairs, New Zealand has chosen to exercise these responsibilities only on the advice of the island governments. In a display of independence in the mid-1980s the Cook Islands demonstrated its difference from New Zealand on a key policy issue by inviting US nuclear ships – banned from New Zealand ports – to visit the

Cook Islands. In marked contrast to the situation relating to the US in Micronesia, New Zealand seeks the permission of the Cook Islands before conducting military exercises on its territory or in its territorial waters.

IX ECONOMIC RELATIONSHIPS

Both the US and New Zealand have provided extensive economic assistance to their FAS. But the amount of US assistance to Micronesia is considerably greater than New Zealand has provided to the self-governing Polynesian states. Over the 15 years of the compact the US has provided a staggering US\$2 billion assistance to the FSM and US\$1 billion to the Marshall Islands. The bulk of the financial assistance was provided under decreasing block grants. In the case of the FSM these amounted to US\$60 million for the first five years (1986-1991), US\$51 million for the second five years, and US\$40 million for the remaining five years. The comparative figures for the three periods in the Marshall Islands are US\$53 million, US\$49 million and US\$46 million. The amounts are adjusted for inflation. A massive 80% of RMI revenue has been derived from US grants. Ninety two percent of Marshallese food is imported, mainly from the US.

The US also provides key services, including US Post Services (the FSM and RMI have their own zip codes), the US Weather Service, and US emergency and aviation services. Further assistance with civil aviation, the training of Foreign Service Officers, and other federal programmes such as environmental protection are also provided. Both the FAS and US defence personnel operating in the region benefit from these services.

New Zealand economic aid to the Cook Islands and Niue has been much more modest. Niue's annual aid package in 2000 was NZ\$5.4 million. That made up 25% of Niue's total government revenue. New Zealand's Cook Island development assistance has decreased from \$5.989 million in 1997/8 to a projected \$3.1 million for 2000. The total Cook Islands budget for 2000 was NZ\$70 million.

What Niue now needs most is a reliable air link. This is its economic lifeline, but the drop in population has made air services uneconomic. Without regular air services the already slim tourist industry will decline, further accelerating the depopulation process.

Although the scale of aid from the US and New Zealand to their respective FAS differs, the long-term effect has been similar – aid dependency. The external assistance has helped fund large government bureaucracies rather than economic development. It is the economic aspects of the Compact that are currently being re-negotiated between the US and FAS. The question which must preoccupy the US negotiators as they reflect on the experience of the past 15 years is how little there is to show from the vast amount of Compact money granted. Much greater accountability requirements can be expected for the renewed agreement.

In terms of promoting economic self-sufficiency the compact has been a resounding failure. However, it can nevertheless be argued that the economic dependency, while expensive, has served US strategic interests, and will continue to do so. Some argue that it was designed to serve this purpose. In any case, the Compact states argue that it is wrong to refer to the money they have received from the US as aid. Rather the payments are seen as 'reciprocal rights' received in return for the military benefits given to the US.

All the FAS making up the case studies in this analysis have been subjected to a severe structural adjustment economic reform process. These have involved savage cuts to the public service – more than 60% in the Cook Islands – and encouragement to the private sector. The ADB has overseen the process, which has encountered severe difficulties. It is difficult to privatise when there is little or no private sector to take over government responsibilities. The absence of a vibrant private sector also severely limits employment opportunities. In every case, the government remains the main employer. The FAS points out that these past distortions in the economy are not of their making, but that they bear the costs of restructuring. Not surprisingly, many have taken the option of emigrating. In the case of the Cook Islands and Niue there is a direct correlation between the severity of economic reform (especially cuts in the public sector) and the rate of depopulation.

X CONCLUSION

On the basis of the US and New Zealand experience with FAS, to what extent can the relationship be deemed a success or a failure? The answer, of course, will depend on whose perspective is being considered. For the US the relationship has protected important strategic interests. But in terms of the stated goal of promoting economic development and greater self-reliance, the Compacts of Free Association have been a resounding failure.

For New Zealand, granting FAS status to the Cook Islands and Niue ended a difficult colonial relationship. But allowing the retention of New Zealand citizenship has had the unintended effect of depopulating the islands. This may have gone beyond the point of no return in Niue. The legacy of a near empty island provides haunting evidence of policy failure. But if citizenship had not been part of the original free association arrangement, it would never have been acceptable to the island states. The Cook Islands can be prevented from following a similar path of depopulation only by economic development. This will require greater ongoing economic assistance from New Zealand at a time when cuts in aid are far more likely.

In conclusion, it can be observed that neither the US nor New Zealand can claim success with their free association arrangements. But at least the US compact states have the population base and expectation of ongoing US assistance to give them a second chance. US strategic interests are likely to ensure the assistance is forthcoming. But the loss of population in the Cook Islands, and more so in Niue, is such that these islands' future viability is in question.

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