

Parliament that is passed with the support of at least two-thirds of the members of each House of Parliament, and at least nine of the 14 Senators appointed by the Great Council of Chiefs.

This means that ALTA is "entrenched", and it cannot be amended by a simple majority in Parliament. In effect, ALTA can only be amended by an Act that is supported by both of the two main political parties, and the Great Council of Chiefs.

WHY DOES THE CONSTITUTION ENTRENCH ALTA?

ALTA is not about land ownership. It is about land use.

Essentially, what ALTA does is strike a balance between the interests of landowners and tenants in the terms and conditions of agricultural leases.

If this balance is right, then landowners will want to lease their land to farmers, and tenants will want to start and continue farming. This will ensure that land is cultivated and agricultural industries thrive. Tenant farmers will earn a living and landowners will receive rent.

However, if the balance between the interests of landowners and tenants is wrong, then they will not be able to work together. Either landowners will not want to lease their land or tenants will not want to farm it.

In these circumstances, less land will be cultivated and agricultural industries will decline. Farmers will find other work or become unemployed. Landowners will receive less rent, or none.

Clearly, the only way to get the balance right is for landowners and tenants to negotiate and try to agree on key issues such as the minimum term of agricultural leases and the formula for calculating rent.

The Constitution ensures that this negotiation takes place, by preventing any amendment of ALTA without the agreement of the political leaders of both the landowning and tenant communities.



See also Part 2: Recent developments, deciding on a process and grassroots experience.

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THE ALTA/NILTA DEBATE

Part 1: Things you need to know to understand the debate over agricultural leases on native land in Fiji

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WHAT IS ALTA?

ALTA is the *Agricultural Landlord and Tenant Act*. This is an Act of Parliament that sets out legal requirements for leases of land in Fiji that is used for agriculture (including everything from sugar cane farming to bee keeping).

ALTA can apply to freehold land, State land (formerly Crown land) and native land. However, it does not apply to small holdings of less than one hectare or native land within a reserve.

If a farmer leases land to which ALTA applies, then the lease must comply with ALTA's requirements. These include:

- a minimum lease term of 30 years
- a maximum annual rent of 6% of the unimproved capital value (UCV) of the land.

ALTA does not provide for leases to be extended or renewed, so when an lease under ALTA expires, the tenant may either seek a new lease from the landlord or vacate the land.



WHAT IS NLTA?

NLTA is the *Native Land Trust Act*. This Act vests the control of native land in the Native Land Trust Board (NLTB), and provides that native land cannot be sold or given away, but may be leased to a tenant (unless it is within a reserve), provided the indigenous Fijian owners of the land do not need it for their own use. The NLTB may also grant licences for the use of native land for particular purposes, such as timber harvesting.

It is the practice of the NLTB to seek the consent of the indigenous owners before granting a lease or licence on native land.

Leases to which NLTA applies may be for a maximum term of 99 years. There is no minimum term. Annual rent for leases under NLTA must be fixed according to market value.

When a NLTA lease expires, the tenant may apply to the NLTB to renew the lease. Otherwise, the tenant may seek a new lease on the same land or vacate the land.

WHAT LAW APPLIES WHEN AN AGRICULTURAL LEASE IS GRANTED ON NATIVE LAND?

When a lease is granted for agriculture on native land, both ALTA and NLTA apply to that lease, but where there are inconsistencies between the two Acts, the provisions of ALTA prevail.

As a result, agricultural leases on native land have a minimum term of 30 years and a maximum rent of 6% of the UCV.



WHY ARE ALTA AND NLTA SO CONTROVERSIAL?

One reason why ALTA and NLTA have become so controversial in the last few years is that several thousand 30-year agricultural leases granted across Fiji in the late 1960s and early 1970s began to expire in the late 1990s.

As this was happening, the NLTB started a campaign for law reform aimed at achieving what it saw as a better deal for indigenous landowners. This would involve amending ALTA so that it no longer applied to agricultural leases on native land. New agricultural leases could then be granted solely under NLTA, with no minimum term and a market value rent.

However, Fiji's 1997 Constitution provides that ALTA can only be amended by an Act of