

***Australian neo-colonialism in the Pacific: Human Rights implications***

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Paper presented at the Castan Centre for Human Rights Law Conference  
"Human Rights 2003: The Year in Review"  
4 December 2003  
CUB Malthouse - Melbourne

"Although it may be argued that there is a basic fund of goodwill towards this country [Australia] in many of the islands, we have to recognise that particularly in Fiji, persistent criticisms arise from a combination of factors: Australia's restrictive immigration policy (in the face of island over-population and limited employment opportunities, especially for educated islanders)...Australia's heavily and in most cases increasingly favourable balance of trade with the region; the association of individual Australians with racially discriminatory practices in the islands themselves. In all, there is a tendency to feel that Australia's attitudes to the islands are dominated by selfish concentration on its own interests in the region, principally commercial profit, and that Australia takes too little account of the wider interests in the welfare and progress of the Pacific community.

"While the South Pacific remained a collection of colonial dependencies, Australia's unforthcoming image may not have mattered a great deal in real terms. Relations with the island authorities could be conducted over the heads of islanders. With the constitutional developments of recent years, the situation has changed. The maintenance of our own place in the South Pacific now depends increasingly on the goodwill of island governments and their recognition that we are sincere in seeking to co-operate on the basis of respect and equality."<sup>1</sup>

These words are quoted from a 1971 Australian Cabinet paper, released to the public after 30 years. The paper was presented to the Cabinet after the formation of the South Pacific Forum in 1971, as the Australian government attempted to come to terms with a newly assertive political leadership in Pacific island countries. The issues, however, are just as relevant today in 2003 as we discuss the human rights implications of Australian policies in the region. Many Pacific islanders would agree that "Australia's attitudes to the islands are dominated by selfish concentration on its own interests in the region, principally commercial profit, and that Australia takes too little account of the wider interests in the welfare and progress of the Pacific community."

In the aftermath of the 2000 coups in Fiji and Solomon Islands, the Australian government instituted a review of its policies towards neighbouring South Pacific countries. In the wake of September 11, the Bali bombing and the war on Iraq, a new concern over issues of transnational crime, immigration policy and national security has refocused Canberra's attention on neighbouring island countries. This policy shift has often been accompanied by rhetoric about "failed states" and potential threats to Australia, rather than a focus on human rights issues.

In August 2003, the Australian Senate Foreign Affairs, Defence and Trade Committee issued an important report on Australia's relations with Papua New Guinea and the Pacific Islands, entitled "A Pacific Engaged"<sup>2</sup>. The report comes at a time of renewed engagement by the Australian government in the region, highlighted by:

- diplomatic lobbying at the 2003 Pacific Islands Forum, which saw the election of an Australian, for the first time, as Secretary General of the Suva-based Forum Secretariat (a position historically held by a Pacific islander);
- a leading role in the Regional Assistance Mission to Solomon Islands (RAMSI), with the deployment of a large Australian Defence Force, Federal Police and Protective Services contingent to the troubled Melanesian country;

- a proposed program to deploy 250 Australian Federal Police officers to Papua New Guinea, to support policing operations (complementing other police deployments and the placement of Australian police officers at Commissioner of Police In Fiji and Deputy Commissioner in Solomon Islands);
- greater focus on “governance”, policy reform and anti-corruption efforts in the Australian aid program, with over \$300 million of assistance to Papua New Guinea and \$170 million to other Pacific island states each year;
- an extension of Australian support for regional security programs (customs and immigration, money laundering, police training, diplomacy training, intelligence sharing etc);
- ongoing Defence Co-operation Program (DCP) activities, including training exercises, port visits and support for the Pacific patrol boat programs, which supports patrolling of island 200-mile Exclusive Economic Zones (EEZs).

But perceptions of crisis and “failed states” in the Pacific have distorted policy responses on human rights issues. The appointment of Australia’s then Counter-Terrorism Ambassador, Nick Warner as head of the Regional Assistance Mission to Solomon Islands symbolises the way much of the discourse around Pacific policy has been framed in terms of national security and “the war on terror” rather than integrating concepts of human security, development and human rights.

The overwhelming sense of crisis presented in public debate doesn’t reflect the diversity of the region, the dynamism of change, nor the fact that Pacific islanders are engaged in dealing with the social, environmental and political problems affecting their countries. Many of the problems affecting the Pacific are global ones, not particular to the region. The current debate on the so-called “arc of instability” also lacks a sense of historical perspective about previous strategic challenges that have been resolved. Australian government officials often under-emphasise the capacity of islanders to respond to crises, as well as ignoring the contribution made by the policies of donor nations, including Australia, to creating and exacerbating the problems.

In the limited time today, I’d like to focus on three human rights areas where Australian policy in the region raises concern: self-determination, indigenous rights and the rights of refugees and internally displaced people.

## **Self-determination, autonomy and political independence**

As troops prepared for the RAMSI deployment in July, Prime Minister Howard told a press conference that many Pacific states are not viable:

“The reality is that, with the greatest goodwill in the world, many of these countries are too small to be viable in the normal understanding of that expression, and we really have to develop an approach that I could loosely call pooled regional governance.... it’s just not possible if you’ve got an island state of fewer than 100,000 people, to expect it to have all of the sophisticated arms of government.”

A striking statement, given that Australia is surrounded by small island developing states (SIDS) and always will be!

The legacies of colonialism are a significant feature in the Pacific, especially as most Pacific Island nations achieved political independence much later than developing nations in Africa and Asia. After a dearth of nation building in the 1980s, in 1990-2000 there were 34 new or renewed members of the UN

General Assembly. Since the mid-1990s, it's mostly Pacific states that are adding to the total: Palau (1994), Kiribati, Nauru, Tonga (1999), Tuvalu (2000) and East Timor (2002).<sup>3</sup>

In its earliest days, the United Nations in 1946 created a list of non-self-governing territories (NSGT), including 72 NSGTs and 11 Trust Territories – many were Pacific islands.<sup>4</sup> Other islands with sovereignty, self-determination and independence movements – such as French Polynesia – were originally listed in 1946, but later unilaterally removed from the list of non-self-governing territories by their administering powers (for example Hawaii was listed in 1946, but removed from the list in 1959 when the UN reported to the UN General Assembly that Hawai'i had achieved self-government. Kanaka Maoli activists argue that the 1959 plebiscite – offering only statehood or the status quo as a colonial territory – was not a valid act of self-determination, and seek re-inscription<sup>5</sup>).

For the Pacific, the issue of self-determination and colonialism is a matter of contemporary reality, not ancient history. There are still many colonised peoples in the Pacific asserting their right of self-determination in line with UN principles and practice on decolonisation. Still other struggles involve indigenous peoples seeking self-determination within the boundaries of post-colonial independent states.

Of the 16 territories still listed as non-self-governing territories with the United Nations Special Committee on Decolonisation, five are in the Pacific region: New Caledonia; Guam; American Samoa; Tokelau; Pitcairn (East Timor was only delisted at the time of independence in 2002). The United Nations created a second International Decade for the Eradication of Colonialism (2001-2010), after the first decade in the 1990s failed to delist any countries. Since 1990, the Special Committee has held seminars, alternating in Caribbean and Pacific, to consult with liberation movements, representatives of non-self-governing territories, administering powers and special experts. It has also organised visiting missions to the region – for example, to Tokelau in 1994, and New Caledonia in 1999 (the latter in co-operation with the Pacific Islands Forum).

In some cases, political parties or indigenous sovereignty movements are calling for greater autonomy within the nation state – in others, the demand is for free association with the administering power or full political independence. This issue affects many territories and administering powers in the Pacific, under a range of political and constitutional arrangements: New Caledonia, French Polynesia and Wallis and Futuna (France); Guam, American Samoa, Commonwealth of the Northern Marianas Islands, and Ka Pae'aina / Hawai'i (USA); Tokelau (New Zealand); Pitcairn (United Kingdom); Rapanui (Chile); West Papua (Indonesia); Bougainville (Papua New Guinea) – even Torres Strait Islands (Australia);<sup>6</sup>

The strength of movements for autonomy or independence varies from place to place, and some non-self-governing territories are so small as to question the viability of political independence. Pitcairn, listed with the UN Decolonisation Committee, has a population of less than 50 people, descendants of the Bounty mutineers. Another example is the non-self-governing territory of Tokelau, with a population of just 1,500 people on three low-lying atolls. However, Tokelauan customary leaders are currently negotiating with the administering power - New Zealand - to develop a new Constitution as a self-governing nation and to hold an act of self-determination, under a process known as “the Modern House of Tokelau”.<sup>7</sup> Through the *Taupulega* (Village Council of Elders) and the customary leader *Ulu o Tokelau*, Tokelauans are calling for the return of Swain's island, currently under US administration, to expand their agricultural base and utilise the maritime resources of the vast 200-mile Exclusive Economic Zone.

In spite of their small size, however, Pacific Island peoples are still asserting their right to self-determination. In contrast to the image of "islands in a far sea" - isolated and impotent - Tongan author Eveli Hau'ofa has posed a different perspective. Hau'ofa celebrates "our sea of islands", talking of a region unified by the Grand Ocean and common elements of island culture.<sup>8</sup> The perception that all island states are low-growth backwaters is not reflected in economic statistics throughout the 1990s.<sup>9</sup> There is a strong sense of regionalism in the islands, and a belief that lines drawn on the map in colonial times do not reflect the unity of the region.

Some academic commentators argue that upholding the right of peoples to self-determination will lead to fragmentation and an unwieldy international set-up (The fragmentation argument doesn't wash much in the Pacific – the argument that Bougainville or Timor is "unviable", even with their massive oil, gas and mineral reserves, doesn't hold much water for SIDS with nations as small as Tuvalu already full members of the UN General Assembly).

The process of self-determination for non-self-governing territories will be influenced by issues of independence, autonomy and federalism within neighbouring post-colonial states. There are a number of examples in the Pacific region.

Papua New Guinea's Parliament has passed legislation giving increased autonomy to the island of Bougainville, with proposals currently being considered to create a local government and set in train a process leading to a vote in ten years time to determine its political future. A similar process is underway in the French territory of New Caledonia, since the 1995 signing of the Noumea Accord. In January 2002, the Indonesian parliament introduced special autonomy for Papua (formerly Irian Jaya) in a bid to quell rising nationalist sentiment in the West Papuan independence movement. The Pacific Islands Forum, of which New Caledonia is an official observer, will have to monitor developments around self-determination in all these Melanesian nations throughout the coming decade.

The issue will not go away. Given the ongoing self-determination struggles in the region, it is striking that that recent Senate report on Australia's relations with the region did not seriously engage with the question - a notable omission given that crises in East Timor, Bougainville, New Caledonia and West Papua have had a major impact on Australia's policy towards the Pacific in recent decades.

## **Indigenous issues**

International human rights law also has an important focus on self-determination for indigenous minorities within nation states.

Most indigenous peoples in the Pacific Islands are still linked to their communal land, indigenous belief systems, spirituality and custom law. There are common social principles that formed the basis of island culture throughout much of the 20<sup>th</sup> century: a) service to chief, family or clan; b) strong commitment to customary land ownership by descent groups; c) reciprocal responsibility between leaders and commoners; and d) the uniting force of Christianity. Today, all these principles are under stress and challenge (or are abused by leaders), as the region addresses the impact of globalisation and trade, aid, debt and investment policies from overseas countries.

For indigenous peoples in the Pacific, land is at the centre of life: as a source of livelihood through subsistence activities; a source of power, authority and status through ownership; and above all as a source of security and identity. In pre-colonial times, land determined the social and political order in Pacific societies, and the recent alienation of customary landowners as a result of the process of

modernisation has led to discontent. Issues of land ownership, usage and tenure are at the heart of many conflicts which are presented as racial or ethnic clashes in the Pacific, including the recent conflict in Solomon Islands, the coups in Fiji or ongoing self-determination struggles around the region.

Throughout much of the Pacific, customary landowners continue to resist the alienation of land, especially for large-scale development projects in mining, forestry, tourism and other industries. There is an ongoing need for training and support for land and resource owners: information from a rights-based perspective; legal support; and creating alternative development strategies to avoid reliance on funds from unsustainable practices such as clear-fell logging.

The debate over indigenous rights is part of a broader international debate on the right to self-determination.<sup>10</sup> The organisation of indigenous peoples at a transnational level has involved the assertion of the right to self-determination for peoples rather than simply dependent territories. Indigenous activists in the Pacific have joined with other peoples around the world for the UN Decade of Indigenous Peoples (1995-2004), and a range of initiatives to promote indigenous rights:

- the work of Working Group of Indigenous Populations (WGIP) with the consensus drafting of a UN draft Declaration on the Rights of Indigenous Peoples (UNDDRIP);
- Countries ratifying ILO Convention 169 concerning indigenous and tribal peoples in independent countries (1989);
- The adoption by the European Union (EU) of a policy paper in 1998 on "EU support for indigenous people in developing countries", which led to a resolution of the EU Council of Ministers;
- The historic decision of the Economic and Social Council (Ecosoc) of the United Nations on 28 July 2000 when the Council adopted a resolution to establish a "Permanent Forum for Indigenous Issues" (the Permanent Forum's Secretariat was established in January 2003).

Article 1 of the ICCPR and ICESCR, and Article 3 of the UN Draft Declaration on the Rights of Indigenous Peoples (UNDDRIP) all reaffirm the right to self-determination for peoples. UNDDRIP provides an important affirmation of the right to self-determination, expressed in Articles 3 and 31, including the right to identity, territory, land and resources.<sup>11</sup> But there has been extensive opposition from governments in the CANZUS group to Article 3 and the right to self-determination over the long process of drafting the Declaration.<sup>12</sup>

The aim of reaching consensus on the UNDDRIP by 2004 (the end of the UN Decade for Indigenous Peoples) has been hampered by a lack of agreement on the meaning of "self-determination", government concerns over possible secessionism, and opposition to articles 25-30 of the draft Declaration which discuss issues of land and resources.

Under the Howard government, Australia has argued for replacing "self-determination" with "self-management", even as the United States started to review its long-held opposition to self-determination under the Clinton administration. In Australia's Statement on the International Decade of the World's Indigenous People at the UN Commission on Human Rights in April 2003, Australia's representative called for the abolition of the Working Group of Indigenous Populations (WGIP) - first founded in 1982, and the body which helped draft the Declaration.<sup>13</sup> This proposal was presented in the context of streamlining UN mechanisms on indigenous issues, given the creation of the Permanent Forum on Indigenous Issues and its Secretariat within the UN. But Australia's proposal has raised concern within Pacific church and NGO networks, especially as the Pacific Islands are lumped in with Asia in the UN system of representation on the Permanent Forum's structures!

Australia’s apparent intransigence on indigenous rights issues within UN structures will have a significant impact on relations with the region. Speaking of Australia and New Zealand, former University of the South Pacific Professor Vijay Naidu has noted: “Physically located in the Pacific, the majority of their people have not made the transition to seeing themselves as Pacific people. They have historically sought to exclude islanders from settling in their countries. Their treatment of their indigenous peoples has been a litmus test in the perception of Pacific islanders on how genuine they are in relating as equals to coloured or black Pacific.”<sup>14</sup>

## “The Pacific Solution”

Another key human rights issue is the status of asylum seekers, refugees and internally displaced people in the region – highlighted by the so-called “Pacific Solution”.

Although refugee numbers within the Pacific region itself are not as large as in Asia and Africa, the status of refugees and internally displaced people has become an issue in recent decades. The “Pacific Solution” allocation of hundreds of millions of dollars towards a relatively small numbers of asylum seekers from the Middle East and Central Asia also raises questions over the government’s commitment to refugees in the Pacific region, at a time when there are tens of thousands of refugees and internally displaced people from crises in West Papua, Bougainville, Solomon Islands and Fiji.

- The conflict in Bougainville in 1988-1998 meant that thousands of Bougainvilleans were internally displaced by force, and many fled as refugees to the neighbouring Solomon Islands
- In Solomon Islands, armed clashes in 1998-2000 between rival militias led to this exodus from Guadalcanal, with an estimated 15-20,000 people evacuated in 1999 (mainly to Malaita), and at least 3,000 more hiding away from their villages by July 2000.<sup>15</sup>
- There are thousands of West Papuan refugees in Papua New Guinea, who have fled Indonesian military operations against the independence movement *Organisasi Papua Merdeka* (OPM). According to a July 2003 report by International Commission of Jurists, over 11,000 linger in West Papuan camps along the border.<sup>16</sup>
- Other countries have small but politically volatile numbers of asylum seekers and internally displaced people, such as Indo-Fijians driven from the highlands of Vanua Levu during the May 2000 coup, or “illegal” Chinese asylum seekers in the French colony of New Caledonia.

President Rene Harris’ June 2002 comment that the Pacific solution on refugees had become a “Pacific nightmare” reflects anger in the Pacific region that Australia’s refugee policy is based on self-interest, without concern for the dignity and development of neighbouring Pacific countries.

UNHCR has explicitly stated that Australia’s policy on detention in the Pacific is in breach of its international human rights obligations:

“UNHCR is concerned about the detention of refugees on Nauru and Manus Island. We consider such detention inconsistent with the provisions of the Refugee Convention.”<sup>17</sup>

The Australian government has repeatedly said that the processing of asylum seekers in Nauru and Papua New Guinea is a temporary measure. But the government has budgeted \$430 million over the next four years for offshore processing in Pacific island countries.<sup>18</sup> Church leaders in Papua New

Guinea have noted that over \$40 million has been spent to establish and run the camp on Manus Island, while church and humanitarian agencies are using limited resources to support over 11,000 West Papuan refugees and border crossers living in official and unofficial camps along the border with Indonesian-controlled Papua. There are also some 17,000 internally displaced people within Papua.

Senior government, church and community leaders have expressed concern over the political, economic and social impacts of the detention of refugees in the Pacific. The current Australian policy has exacerbated domestic political conflicts in neighbouring countries, contributing to the sacking of the PNG Foreign Minister and the electoral defeat of the long-serving Governor of Manus Province. In Nauru, senior public servants have been suspended for opposing the policy. There is growing concern over long-term economic management by the government led by President Rene Harris, leading to the resignation of Nauru's Chief Secretary. The current Australian aid program for Nauru has been developed in an ad hoc and unsustainable manner, and long term planning is needed

The establishment of detention centres in Australia's two former colonies has raised questions of sovereignty and legal jurisdiction, and whether the camps exist as "rights free zones". Nauru is not a signatory to the 1951 *Refugee Convention*. While Papua New Guinea has signed the Convention, it has placed significant reservations, and does not accept Convention obligations covering: Wage-earning employment (Art.17); Housing (Art.21); Public education (Art.22); Freedom of movement (Art.26); Refugees unlawfully in the country of refuge (Art.31); Expulsion (Art.32); and Naturalisation (Art.34).

There is also concern in the region that Australia's "Pacific solution" is breaching the Constitutions of Nauru and Papua New Guinea. Both Constitutions prevent arbitrary detention from occurring, with explicit provisions providing for the right to a lawyer and for detainees to be brought before a court and charged with an offence requiring detention. These human rights have been denied to the detainees on Nauru and Manus Island.

For example, Article 5 (1) of the Nauru Constitution states that "No person shall be deprived of his personal liberty, except as authorised by law in any of the following cases" – the cases listed in the Constitution, covering the spread of disease, criminal offences, do not appear to cover the asylum seekers.

The Nauru Constitution, in section 5 (2), also guarantees the right of legal representation "to consult in the place in which he is detained a legal representative of his own choice". In 2002 and 2003, the Nauruan government has refused to grant visas for independent Australian lawyers to travel to the country to advise the detained asylum seekers of their rights, even though Australian immigration officials are processing their refugee applications.<sup>19</sup> However, the Nauru Constitution, in section 5 (2), guarantees a person the right of legal representation "to consult in the place in which he is detained a legal representative of his own choice."<sup>20</sup>

Section s.42 (2) of the PNG Constitution also states that a person who is detained "shall be given adequate opportunity to give instructions to a lawyer of his choice in the place in which he is detained, and shall be informed immediately on his arrest or detention of his rights under this subsection." Yet asylum seekers in Manus have not been given access to independent lawyers for detailed legal advice about their rights under Australian immigration and refugee law.

The Australian government has taken steps to change the language it uses to refer to people detained in overseas countries, even as it champions mandatory detention to the general public in Australia. The Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) has even gone to the extent

of censoring documents on its website to remove references to "detention" in Nauru and Papua New Guinea. For example, a fact sheet on the DIMIA website sets out information on the Nauru and Manus Island detention camps. The original version, dated 2 January 2002, gives the number of asylum seekers "detained" on Nauru and Manus Island. The revised edition of the same fact sheet, dated 21 May 2002, gives updated numbers of those held in the camps, but now states they are "located" on Nauru and Manus, not detained.<sup>21</sup>

Noel Levi, outgoing Secretary General of the Forum Secretariat, has expressed serious reservations over the impact of the Australian government's refugee policy. In 2001, Mr. Levi stated: "We may end up a region with unwanted people after the processing has taken place and the professionals and the qualified people have been taken by other countries. We will be left with the unwanted because so far I have not heard anything from the UNHCR as to whether they will be responsible for these people after the processing... From experiences that from other countries that have processed refugees in the past, we have learned from their experiences that these people, they are unwanted people and even the ones that were identified as genuine refugees have stayed longer than anticipated and UNHCR has not made any commitment at all as to whether they will look after the people who are not accepted to anywhere - or take them out from the Pacific island countries."<sup>22</sup>

As we meet in December 2003, Levi's predictions have come true. Just one asylum seeker has been living at the detention centre in Manus, Papua New Guinea, since July 2003 - a Palestinian lost in limbo. In early December, a group of twenty asylum seekers were flown out of Nauru ending two years of detention under Australia's "Pacific Solution" - nineteen to Afghanistan and one to Iraq, accepting voluntary repatriation. But there are still over 280 people on Nauru from Afghanistan, Iraq and other hotspots who have refused to return to their country of origin, even though they have been refused refugee status. Of these, some 90 are children - living in detention and out of reach of social and welfare services provided to children in detention in Australia (the mandate of the Human Rights and Equal Opportunity Commission inquiry into children in detention did not extend to those children being held in Nauru).

## Human Rights initiatives

These issues of human rights are high on the agenda of Pacific societies, and a vibrant church and community sector is focussing on the full spectrum of concerns. There is enormous potential for Australian lawyers and human rights workers to collaborate with their Pacific counterparts in government and the community sector.

There is at present no regional human rights centre, though there have been attempts to establish an independent body. In 1998-99, a Maori lawyer from Aotearoa / New Zealand worked in Fiji for two years as a Commonwealth Fellow, to investigate the establishment of a Pacific Human Rights Centre. A proposal for a Pacific program on human rights, to be based at the Institute for Justice and Applied Legal Studies (IJALS) at the USP in Suva, has been submitted to the European Union, but consideration of EU funding has not progressed after the May 2000 coup.

Apart from Australia and Aotearoa / New Zealand, there is only one government Human Rights Commission in the Pacific, located in Fiji. The 1997 Fiji Constitution entrenches the need for such a body. The Asia Pacific Forum for Human Rights Institutions has been working to establish other such government commissions in the Pacific (especially in Papua New Guinea), and an important seminar was held on standards for Pacific human rights commissions at USP in 1999.<sup>23</sup>



Australia’s AusAID-funded projects do some good work – for example on women’s and children’s rights - but the government’s “good governance” agenda focuses largely on civil and political rights, corruption and reform of the public sector.

Pacific NGOs move beyond a focus on civil and political rights, to address broader collective rights and integration with economic, social and cultural rights: the right to development, to self-determination, to a clean environment; intellectual property rights and issues of inter-generational equity (There have been campaigns looking back to acknowledge past crimes – for example, saying sorry with the 1993 US Public Law 103-150 on the 100<sup>th</sup> anniversary of the overthrow of the Hawaiian Kingdom, the first coup d’etat in the Pacific - and also looking forward with efforts to stop ecocide for future generations by halting nuclear dumping, testing and transport).

NGOs such as Pacific Concerns Resource Centre (PCRC), Tonga Human Rights and Democracy Movement, Citizen’s Constitutional Forum (CCF), and RRRT (the Pacific Regional Human Rights Education Resource Team) have initiated national and regional programs on human rights. Pacific NGO delegations attended the Vienna Conference on Human Rights and other global summits throughout the 1990s, and have organised key regional seminars on a broad range of human rights issues (including legal literacy training, economic social and cultural rights, women’s rights, intellectual property rights and traditional knowledge, decolonisation and demilitarisation etc).

PCRC also co-operates with Australian and European human rights groups, such as the Diplomacy Training Program (based at the Faculty of Law at UNSW in Sydney) and International Service on Human Rights in Geneva, to provide education and training programs for church and NGO activists on international human rights instruments.

Non-government organisations in the islands play a central role in keeping self-determination issues on the map. Civil society organisations in the Pacific are lobbying to implement the provisions of Programs of action arising from international summits as they affect non-self-governing territories.<sup>24</sup>

For example, the Pacific Concerns Resource Centre (PCRC) in Suva, Fiji has been involved in information programs, lobbying and campaigning on self-determination and decolonisation issues since its founding two decades ago. Together with the Government of Fiji, PCRC co-hosted a 1996 workshop on the UN Draft Declaration on the Rights of Indigenous Peoples, to inform Pacific peoples about the draft document and the work of the UN Working Group on Indigenous Populations. It has supported Pacific delegations to attend regional and international meetings, such as the UN Human Rights Commission, the UN Decolonisation Committee and preparatory committees and ad hoc working groups for the Permanent Forum for Indigenous Issues within the United Nations.

Addressing the crises in Fiji, Solomon Islands and Bougainville has meant reviewing the independence-era Constitutions. But a focus on constitutional change and civil and political rights downplays the larger question of addressing the underlying causes of conflict, often relating to issue of land, cultural identity, leadership and social and economic rights. As one Pacific activist has noted:

“There is a limit to legislative justice. You cannot legislate away racial discrimination or for peaceful co-existence. Enlightened Constitutions and legislation must be supplemented by social engineering initiatives that are aimed at social cohesion and human security in a multi-ethnic milieu. These must include educational curricula that promote multi-ethnic tolerance and unity. It must include affirmative action or social justice programs that are geared towards rebalancing the inequities in access to educational, commercial opportunities and state services (health, water, electricity) and resources that were inherited from the colonial government. It must include national dialogue between the different

Castan Centre for Human Rights Law Conference “Human Rights 2003: The Year in Review”  
4 December 2003

racial and ethnic groups to address the ‘problems of history’ relating to the alienation of land and natural resources during the colonial era, and also the place of indigenous peoples in the scheme of democratic governance.”<sup>25</sup>

## ENDNOTES

- <sup>1</sup> “Political Consultation in the South Pacific”, Submission No.47, Decision No.94, Cabinet Minute, Canberra, 20 April 1971, released by the National Archives of Australia, January 2002 (<http://www.naa.gov.au/>)
- <sup>2</sup> Foreign Affairs, Defence and Trade References Committee: *A Pacific Engaged – Australia’s relations with Papua New Guinea and the islands states of the South West Pacific* (Commonwealth of Australia, Canberra, 2003).
- <sup>3</sup> The Federal Republic of Yugoslavia was added again in 2000 after the re-integration of Serbia and Montenegro.
- <sup>4</sup> In our region, the listed administering powers and territories included: New Zealand with Cook Islands and Tokelau; Australia with Papua; France with Etablissements Française d’Océanie (EFO) and New Caledonia; United States with Guam, Hawai’i, Alaska, American Samoa; Britain with Fiji, the High Commission Territories of the Western Pacific (British Solomon Islands Protectorate, Pitcairn, Gilbert and Ellice Islands), and (together with France) the condominium of the New Hebrides. The Trust Territories included Nauru (administered by Australia) and the UN Strategic Trust Territory of the Pacific Islands (today made up of Palau, Marshall Islands, Federated States of Micronesia and CNMI), administered by the United States.
- <sup>5</sup> Kanaka Maoli Tribunal Komike: *Kanaka Maoli Self-determination and the case for decolonisation in Hawai’i* (KMTK, Honolulu, 1997). Ramon Lopez-Reyes: “The 1959 vote and the removal of Hawai’i from the list of Non-Self-Governing Territories”, *Self-Determination Newsletter*, August 1997.
- <sup>6</sup> A detailed study of the role of the UN Decolonisation Committee can be found in Carlyle Corbin: “What future for the United Nations’ decolonisation process?”, *Indigenous Affairs*, No.1, January – March 2000.
- <sup>7</sup> Aliko Faipule Kolouei O’Brien: “The Modern House of Tokelau”, *Pacific News Bulletin*, June 2000
- <sup>8</sup> Epeli Hau’ofa: *A New Oceania – rediscovering our sea of islands* (SSED USP, Suva, 1993).
- <sup>9</sup> For a critique of the World Bank’s image of the Pacific islands as the “hole in the donut” of Pacific Rim growth, see Greg Fry: “Framing the Islands – knowledge and power in changing Australian images of ‘the South Pacific’” in *The Contemporary Pacific*, Vol. 9 No.2, Fall 1997.
- <sup>10</sup> For analysis, see Y.N. Kly and D. Kly (Eds): *In pursuit of the right to self-determination – collected papers and proceedings of the First International Conference on the right to Self-determination and the United Nations* (Clarity Press, Atlanta, 2001)
- <sup>11</sup> For the applicability of this draft declaration to the Pacific, see the *Report of the inaugural Indigenous Peoples of the Pacific Workshop on the UN Draft Declaration of the Rights of Indigenous Peoples, Suva, Fiji, 1996* (Government of the Republic of Fiji / Pacific Concerns Resource Centre, Suva, 1997).
- <sup>12</sup> CANZUS links Canada, Australia, New Zealand and the United States, who have caucused (not always in agreement) in the long negotiations over UNDDRIP.
- <sup>13</sup> Australian Statement on the International Decade of the World’s Indigenous People, by Mr. Gerry McGuire, Item 15: Indigenous issues, 59<sup>th</sup> Session of the UN Commission on Human Rights, 10 April 2003.
- <sup>14</sup> Vijay Naidu: “A shark among minnows? Australia’s changing role in the South Pacific”, presentation to ACFOA seminar “Shifting tides in Pacific policy”, 18 September 2003 (mimeo).
- <sup>15</sup> Amnesty International: *Solomon Islands – a forgotten conflict* (ASA 43/005/2000 7 September 2000). See also Tarcisius Tara Kabutaulaka: ‘Beyond ethnicity – understanding the crisis in the Solomon Islands’, *Pacific News Bulletin*, May 2000.
- <sup>16</sup> International Commission of Jurists (Australian section): *Seeking refuge – the status of West Papuans in Papua New Guinea* (ICJ, July 2003). See also ‘8000 West Papuans still in camps 18 years later’, *The Independent*, 15 January 2002.
- <sup>17</sup> “Pacific Solution inconsistent with convention: UN”, *The Australian*, 2 August 2002.
- <sup>18</sup> Oxfam Community Aid Abroad: *Adrift in the Pacific – the implications of Australia’s Pacific Refugee Solution* (OCAA, Melbourne, February 2002). Available on the web at <<http://www.caa.org.au/campaigns/refugees/pacificsolution/>>.
- <sup>19</sup> “Nauru shuts out Australian lawyers”, *The Australian*, 7 May 2002.
- <sup>20</sup> Details of the Nauruan Constitution and relevant legislation can be found on the USP Law School website at [http://www.vanuatu.usp.ac.fj/paclawmat/Nauru\\_legislation/Nauru\\_Constitution.html](http://www.vanuatu.usp.ac.fj/paclawmat/Nauru_legislation/Nauru_Constitution.html)
- <sup>21</sup> The January 2002 edition of Fact Sheet 76 states: “As at 31 December 2001, 1118 unauthorised arrivals were *detained* at Nauru”, and “Currently, 216 people are *detained* at Manus Island”. The updated May edition says: “As at 17 May 2002, 1103 unauthorised arrivals were *located* at Nauru”, and “As at 17 May 2002, 340 people are *located* at Manus Island” (our emphasis). See ‘Offshore Processing Arrangements’ Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) Fact Sheet No.76, First version dated 2 January 2002, second version dated 21 May 2002.
- <sup>22</sup> ‘Refugee “Pacific Solution” creates friction for island nations’, PM program, *ABC Radio*, 29 October 2001.
- <sup>23</sup> CCF and IJALS: *The Importance of National Human Rights Institutions*, CCF, Suva, 1998.
- <sup>24</sup> UN General Assembly resolution 56/67 notes that the Special Committee on Decolonisation should urge specialised agencies to “strengthen existing measures of support and formulate appropriate programmes of assistance to the remaining non-self-governing territories” and seek “concrete proposals for the full implementation of the relevant resolutions . See “Implementation of the Declaration on the granting of Independence to Colonial Countries and peoples by the specialised

agencies and the international institutions associated with the United Nations”, UN General Assembly resolution 56/67 of 10 December 2001.

<sup>25</sup> Lopeti Senituli: “Indigenous peoples in the Pacific context”, paper to the UNDP, July 1999 (mimeo).