

ME WHAKAPUTA KĒ I RUNGA I TE TIKA

# JUST CHANGE

CRITICAL THINKING ON GLOBAL ISSUES

He whakaaro kaikini mō ngā take o te ao

## HUMAN RIGHTS IN THE PACIFIC

Ngā Motika Tangata i Te Moana-nui-a-Kiwa



### PACIFIC DISILLUSION

Will the end of Australia's Pacific Solution mean better treatment for asylum seekers in the South Pacific?

### TRADING AWAY OUR RIGHTS?

Wesley Morgan from the Pacific Network on Globalisation argues that the EU's aggressive free trade deals risk undermining human rights in the Pacific.

KA WHAKAPUTA KĒ KIA TIKAI TE AO

C H A N G E F O R A J U S T W O R L D



## Coming Up:

The October 2008 issue of Just Change is on Energy. The following issue, due out early 2009, will focus on health. We welcome anyone with an interest in health and development issues to submit an abstract for consideration. For further information, please contact [justchange@dev-zone.org](mailto:justchange@dev-zone.org).

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The DRC's two programmes are Dev-Zone ([www.dev-zone.org](http://www.dev-zone.org)), a resource centre on international development and global issues for the development and human rights sector, as well as tertiary students and the general public, and the Global Education Centre ([www.globaled.org.nz](http://www.globaled.org.nz)), which provides training and resources on global education to the formal and non-formal education sectors.

The motivation for *Just Change* falls under Dev-Zone's mandate to inform and educate people to take action to create a just world. Grounded in Aotearoa New Zealand and the Pacific, but with a global reach, *Just Change* prioritises a holistic, sustainable approach to development; a call for the development community and the general public to take action; and an overall aim of ensuring that the voices – and the issues – of those who are most vulnerable are heard.

*Just Change* is a product of, by, and for those who are invested in sustainable development, social justice, and human rights. The magazine is published every four months – each issue is based on a different global concern. Writers are not journalists; they are either those working in development or students/teachers of development studies and related programmes. Articles and other contributions are based on academic research and/or development work in the field.

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*A patient in a mental illness ward at a Pacific Island hospital. Pacific Island hospitals like this one face severe funding challenges; this hospital houses nearly 100 mentally ill patients, and relies on limited funding from the government with no assistance from other donors. Patients are housed together in a large room with limited hygiene facilities, and in this environment fulfilment of people's right to access quality care is limited.*

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## HE WHAKAARO NĀ TE ĒTITA TĀPAE WAKAARO GUEST EDITORIAL

CED SIMPSON, ARTICLE28

10 December 2008 will be the sixtieth anniversary of one of the most significant developments in world history: the adoption of the *Universal Declaration of Human Rights* (UDHR).

In a world – including the Pacific – still dominated by colonial powers and empire, government leaders from across the world agreed, for the first time in human history, that 'All human beings are born free and equal in dignity and rights'. Not just Europeans. Not just men.

Yet here in the next century, 'human rights' is a contentious issue in the Pacific and we have an embarrassingly low sign-up rate to the international human rights treaties that followed the adoption of the UDHR.

Using arguments that were used by dictators and despotic elites in other regions in the 1960s, 70s and 80s there have been charges that all this human rights stuff is a foreign, neo-colonial imposition. Academics have argued that 'human rights' places too much emphasis on the rights of the individual, and is at odds with Pacific cultures.

### Human rights – common aspirations

The modern human rights framework emerged partly out of the struggle of colonised people to be treated with dignity, equality and fairness as human beings. Before, during and after the Second World War, Asian and African leaders campaigned for recognition of their people's human rights and in favour of human rights being entrenched in a new world order. After the adoption of the UDHR they were amongst the first to demand that the newly proclaimed human rights be honoured and enforced. The governments of 'the West' often resisted them – in the League of Nations, and during the drafting of the *UN Charter* and the UDHR.

Human rights reflect basic human aspirations. They draw on the struggles of oppressed peoples over the centuries. Their articulation has been the result of arduous cross-cultural and international negotiation over six decades and reflects global agreement on the conditions necessary for a dignified human existence.

Key values said to be at the heart of Pacific traditional cultures – such as the inherent worth and dignity of the individual, love and care for others, shared and accountable leadership – are reflected in the international human rights framework. Those with extensive experience in community-level human rights discussions in the Pacific region have reported that when the rights are discussed one by one, opposition to human rights often disappears.

### Collective well-being

It is often argued that 'human rights' runs counter to the value given in Pacific cultures to community well-being. But article 29 of the UDHR – frequently ignored – captures the sense of individual responsibility for the collective welfare:

*Everyone has duties to the community in which alone the free and full development of his personality is possible' and exercise of human rights may be subject to 'limitations as are determined by law...for the purpose of securing due recognition and respect for the rights...of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*

There is a tendency to exaggerate the extent to which individualism is a characteristic of 'western' society, and underestimate the extent to which concern for the individual is an inherent characteristic of 'traditional' cultures.

There was clear understanding during the drafting of the UDHR in the 1940s that collective good and respect for the human rights of all were inextricably linked. Aotearoa New Zealand stressed the importance of collective provision for realising economic and social rights.

The human rights framework is a powerful tool in the defence of the collective well-being of the peoples of the Pacific. For example:

Independence was facilitated by a recognition of the human right to self-determination. In the twenty-first century that same right is crucial in asserting nations' rights to participate in discussions of the global trading regime.

The right to development, declared in 1986, is a key framework for development cooperation in the region.

The impact of global warming on Pacific island states can be effectively discussed in terms of the human right to livelihoods, culture and survival as a way of prompting international action.

The well-understood connection between peace and respect for human rights of all was a key driver of the development of the human rights framework during and after the second world war, and consideration of the human rights of all affected parties remains the key to settling conflict in countries such as the Solomon Islands and Fiji.

The human rights framework is a synthesis and codification based on shared human aspirations and Pasifika women, men and children are just as entitled to human rights as those in Asia, Africa, the Middle East, Latin America and 'the West'.

*Ced Simpson is the former Executive Director of Amnesty International's Aotearoa NZ section, and is currently involved with Article28 and Building Human Rights Communities in Education.*



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### A tale of two women

Dealing with HIV/AIDS is a struggle faced by women the world over; their right to treatment and non-discrimination however, varies greatly.



### Women human rights defenders in Fiji

At a time when respect for human rights is being tested, Women human rights defenders are protesting human rights abuses and envisioning a way forward for Fiji.



### Pacific disillusion

Does the end of the Pacific Solution signal the end of the human rights infringements it caused?

# History of human

## Early history

The early origins of human rights have two central sources: religion and debates on 'natural law'. Texts from a range of religions set down timeless ideals for conduct that acknowledged the dignity of all human beings and affirmed the idea of responsibility to one's neighbour as a moral duty. Moral and political philosophers added to the foundation of discussions around rights through debates on 'natural law', encompassing issues such as the dignity of each person, ethical behaviour and the protection of the individual. They initially, like the religions, talked about these in terms of duties and responsibilities.

It was social, economic and political upheavals that turned debates around duties and responsibilities into discussion of rights. In Europe the commercial economy expanded and the emerging middle class found economic and political rights were now a priority. The Protestant Reformation and the Renaissance also brought social and religious rights to the forefront. The Magna Carta in 1215 was significant in the development of British law and human rights, limiting the power of the king and recognising rights such as *habeas corpus* the right to appeal against unlawful imprisonment. Throughout the following centuries, human rights were asserted in a range of legal documents including the constitutions of the United States and France. The key natural rights philosopher John Locke argued that once natural rights had been recognised, people formed governments to protect these rights. A government that exceeded the power it had been given had broken its natural rights and people had the right to resist.

Human rights have continued to be controversial, challenging the structure of societies. Rights were used as arguments in a wide range of social and political struggles including the abolition of slavery, child labour, decolonisation and independence movements, and women's movements.

## Vocabulary

**Signed** – the state expresses its interest in the treaty and its intention to become a Party. The state is not bound by the signature.

**Ratified** – the treaty is legally binding for a country in international law. For some countries this means that it is automatically part of domestic law, for others a separate domestic law has to be passed to make this the case. For Aotearoa NZ, separate domestic laws have to be passed.

**Accession** – signing and ratifying a treaty in one step, by depositing an 'instrument of accession' with the Secretary-General of the UN.

**Succession** – is when a country that was once a colony takes on the treaties that were signed on its behalf before independence.

## Human rights and the United Nations

The devising of the *United Nations Charter* in 1945 was aimed at creating a body that would promote 'peace with rights', an international force that would prevent the horrors of the Second World War from happening again.

The *UN Charter* provided moral impetus to a number of national human rights-based laws and struggles including in Aotearoa NZ, the Māori Social and Economic Advancement Act that was passed in 1945. National human rights infringements were now an international responsibility.

The creation of a Commission on Human Rights in 1946 was a major step for international human rights. The commission was tasked with drafting the *Universal Declaration of Human Rights (UDHR)*. The process involved philosophers, diplomats and politicians from a wide range of countries and cultures. The resulting document was forwarded to the UN General Assembly and on 10 December 1948, after much discussion and deliberation, the declaration was adopted: 48 votes for; 8 abstentions and no votes against.

The *Universal Declaration of Human Rights* became the basis of the international human rights treaties that were to follow. (See boxed text for details of the central UN treaties)

In 2006, a 47-seat Human Rights Council was created to replace the Commission on Human Rights. The Commission had been criticised for the often abysmal human rights records of its



Human Rights Council in session at the United Nations. Photo: Ruth Gallagher.

members. The new body has increased status within the UN, and countries serving as members are more clearly expected to uphold the highest standards. Aotearoa NZ is standing for election to the Council in 2009.

## Major criticisms of human rights

Human rights issues continue to be debated as new priorities emerge, and there are many criticisms of human rights concepts and the structures that enforce them, including:

	ICERD	ICCPR	OP1-ICCPR	OP2-ICCPR	ICESCR	CEDAW	OP-CEDAW	CAT	OP-CAT	CRC	OP-CRC-AC	OP-CRC-SC	ICRMW	CPD	OP-CPD	CED
Aotearoa NZ	●	●	●	●	●	●	●	●	●	●	●	●		●		
Australia	●	●	●	●	●	●		●		●	●	●		●		
Cook Islands	●	●			●	●	●			●	●	●				
Fiji	●					●				●	●	●				
Kiribati						●				●						
Micronesia (Federated States of)						●				●	●	●				
Nauru	●	●	●					●		●	●	●				
Niue	●	●			●	●				●						
Palau										●						
PNG	●					●				●						
Samoa		●				●				●						●
Solomon Islands	●				●	●	●			●						
Timor	●	●		●	●	●	●	●	●	●	●	●	●			
Tonga	●									●				●		
Tuvalu						●				●						
Vanuatu		●				●	●			●	●	●		●		●
● – are a party to the treaty through ratification, accession or succession      ● – signed only																

### Reasons why Pacific countries may not have signed and/or ratified treaties:

- Human rights are already part of the individual constitutions in Pacific countries and therefore there is no perceived need for international treaties
- The financial cost of participating in the process and setting up the reporting structures is too great and the money is better spent elsewhere
- The fear that international human rights norms will clash with the traditional values and cultural norms of Pacific Island states. Some argue a Pacific Regional system may be more appropriate.





- Human rights are a western concept and can challenge cultural practice.
- Human rights are too narrow. Focus is on the state versus the people and so may not take into account other parties, such as corporations, that commit human rights abuses. Emphasis on international treaties and legal recognition may cover up human rights abuses or the root causes of them.
- Human rights can promote a particular ideological viewpoint. For example, recognising the right to individual property can ignore collective ownership and may be used to draw people into a capitalist economy.
- The dominance of human rights as an emancipation strategy has limited the space for other strategies.

## In the Pacific

A 2007 report identified the following issues as areas of concern for the Pacific:

- governance
- freedom of expression and information
- ethnic and racial discrimination and the rights of migrant workers
- discrimination against women
- rights of people living with HIV and AIDS
- children's rights
- rights of people with disabilities
- labour rights
- environmental degradation
- fair distribution of national income and wealth
- right to education
- right to health
- cultural issues in relation to human rights
- rights of prisoners.
- communal and individual rights
- violence or civil unrest, for example, in relation to land disputes
- violations by public agents such as the police.

(National Human Rights Institutions Pathways for Pacific States, Human Rights Commission and Pacific Island Forum Secretariat, 9 August 2007)

## Key players

### New Zealand Human Rights Commission

Set up as a result of the *Human Rights Commission Act 1977*, the Human Rights Commission is empowered under the *Human Rights Act 1993* to protect human rights in general accordance with United Nations Covenants and Conventions.

### New Zealand Law Commission

The Law Commission is mandated to review, reform and develop Aotearoa NZ's law. One of their current projects focuses on how Pacific traditions and human rights could positively inform one another.

### Human Rights Watch

Carries out extensive research into human rights issues around

the world. Their reports are used to shame governments and work with policy makers to prevent human rights abuses.

### The Pacific Regional Rights Resource Team (RRRT)

Non-profit organisation which provides specialised training and the provision of resources to practitioners and the public on issues relating to human rights and law in the Pacific.

### Transparency International

Seeks to fight and prevent corruption and its negative impact on men, women and children; six chapters in the Pacific.

### Human Rights Day: 10 December

Marks the day the *Universal Declaration of Human Rights* was adopted by the UN General Assembly in 1948.

## International Human Rights Treaties

### Universal Declaration of Human Rights (UDHR) 1948

Though UN declarations are not generally legally binding, the UDHR has a high degree of moral influence and has, it is often argued, become part of international customary law. The UDHR along with the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* (and its two optional protocols) form the *International Bill of Human Rights*.

### International Convention on the Elimination of all forms of Racial Discrimination (ICERD) 1965

Defines racial discrimination and mandates that states should take action against racial discrimination within society and provide legal remedy for racial discrimination that has occurred.

**Entry into force:** 4 January 1969

**Status:** Signatories: 85, Parties: 173

### International Covenant on Civil and Political Rights (ICCPR) 1966

Elaborates on, and makes legally binding, the civil and political rights laid down in the UDHR. Two optional protocols provide for the right of individual petition to the Human Rights Committee and promote the abolition of the death penalty.

**Entry into force:** 23 March 1976

**Status:** Signatories: 70, Parties: 161

### International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966

Obligates governments to work towards securing rights of health, education, work, social security and participation in cultural life, amongst others.

**Entry into force:** 3 January 1976

**Status:** Signatories: 67, Parties: 158

### Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 1979

Deals with the discrimination of women specifically.

**Entry into force:** 3 September 1981

**Status:** Signatories: 98, Parties: 185

### Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984

Extends the Covenant on Civil and Political Rights and develops a legal scheme for the prevention and punishment of these rights violations. An optional protocol from 2002 allows for visits by national and international bodies to places of detention to prevent torture and other ill treatment.

**Entry into force:** 26 June 1987

**Status:** Signatories: 75, Parties: 145

### Convention on the Rights of the Child (CRC) 1989

Breaks new ground by including the full range of human rights as they apply to children including the right to privacy, freedom of expression and thought and access to information. Optional protocols, adopted in 2000, relate to the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

**Entry into force:** 2 September 1990

**Status:** Signatories: 140, Parties: 193

### International Convention on the Protection of the Rights of all Migrant Workers and members of their families (ICRMW) 1990

Includes rights relevant to both the receiving state and sending states and covers the entire migration process.

**Entry into force:** 1 July 2003

**Status:** Signatories: 28, Parties: 37

### Convention on the Rights of Persons with Disabilities (CPD) 2006

Aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

**Entry into force:** 3 May 2008

**Status:** Signatories: 129, Parties: 27

### International Convention for the Protection of all persons from Enforced Disappearance (CED) 2006

Seeks to prevent states, and groups supported by states, from forcibly depriving individuals of their liberty and preventing their access to and protection by the law.

**Not yet into force.**

**Status:** Signatories: 73, Parties: 4

Alongside these central treaties there are over 80 other international agreements on human rights. Most have bodies that countries report to and that monitor its implementation. An important recent development was the *Declaration on the Rights of Indigenous Peoples* adopted in September 2007: 144 votes for; 11 abstentions and 4 votes against (two of which were Aotearoa NZ and Australia). From the Pacific, only Timor-Leste and the Federated States of Micronesia voted in favour. The Declaration is not legally binding but is a clear statement on the commitment of nations to adhere to indigenous rights.

**'I have never been discriminated against or stigmatised because of my condition'**




**'People wouldn't touch or get near me'**



**A STORY OF TWO WOMEN  
LIVING WITH HIV**



**CARINA GALLEGOS** tells us a story of two women: one white, one brown, both from different cultural backgrounds, living at different ends of the Pacific, the existence of either unknown to the other. But there are strong threads that weave together the lives of these women and their wider struggle for rights.



Jan Wadell and Irene Malachi both led successful careers as experienced nurses, dedicating their lives to serving and caring for others. Both women are mothers; both have been wives and daughters. Both women are actively engaged in raising awareness on HIV and AIDS in their communities. And both also require access to antiretroviral medicine because both Jan and Irene are HIV positive.

Jan and Irene each contracted the virus through accidents involving an infected needle while working with HIV positive patients. The challenges each has faced after her diagnosis, however, have been far from similar. While Jan's rights have been protected and upheld since she was diagnosed, Irene's journey has been plagued with discrimination, lack of access to appropriate medical care and social services, and breaches of confidentiality. Without treatment, HIV can lead to AIDS and death. Lack of access to adequate treatment therefore means the difference between life and death. However, in spite of the difficulties and obstacles Jan and Irene may have endured, both have committed their lives to raising awareness of HIV, breaking stereotypes and misconceptions surrounding the virus and those living with it.

#### JAN'S STORY

Jan had been working as a nurse in Perth, Australia, for 12 years when, in January 2002, she pricked herself with a needle while taking blood from an HIV positive patient. 'The needle became embedded between my forefinger and thumb,' she explains. 'It was an accident, pure and simple as that.'

Jan received immediate medical attention and despite tests confirming her to be HIV negative, she kept falling ill. Finally, on April 2002 Jan felt so sick she had to be taken to the hospital. On the morning of 5 April, Jan was diagnosed as HIV positive.

'So many people said to me, "It's not fair, you got this doing your job. You don't deserve this." And it makes me so angry. How you become infected is totally irrelevant because no one deserves this. Regardless of your sexual preferences or your social practices – nobody deserves to be HIV positive.'

Jan's support network extended from work colleagues to family and friends. 'I have never been discriminated against or stigmatised because of my condition.'

Despite receiving the best medical attention available, Jan's side-effects and her reactions to medication kept her from resuming her life

as a nurse. The company she worked for, however, sought to support her in every possible way: Jan was placed on compassionate leave, kept on full pay for a year, and was even provided with a housekeeper to help her while she was ill. 'Even the taxi bills to go to the hospital were covered,' she says.

Jan and her husband, Jim, decided to take early retirement and, in 2005, moved to Invercargill in New Zealand.

'The only inconvenience I had when I first arrived to Invercargill was finding an HIV specialist in my area. The nearest specialist was a two-hour drive away in Dunedin.' Jan and her doctor arranged to have three-month supplies of antiretroviral medications couriered to her at a time. 'It cost me sixty dollars for the courier. If I could pick them up myself, it wouldn't have cost me anything,' she says.

There is now an HIV specialist in Invercargill, which means Jan has immediate access to a doctor and to her medications. In February 2008, Jan became one of the faces of Positive Women's national de-stigmatisation campaign, which displays photographs of HIV positive women on the sides of buses and profiles their lives on websites and in magazines. Jan's life hasn't changed much since the launch of the campaign—and she makes a point of saying that by raising awareness and educating people on HIV, it is not her life she seeks to change, but the lives of others. 'People need to look beyond the stereotypes surrounding HIV. They need to understand that HIV doesn't discriminate, regardless of who or where you are.'

#### IRENE'S STORY

Irene worked as a nurse in Port Vila for 17 years, and spent three years working in Port Moresby, Papua New Guinea, where she thinks she may have come in contact with an HIV infected needle. It was not until much later though, in 2002, that she began experiencing severe flu symptoms, accompanied by drastic weight and hair loss. 'I thought it might be cancer, but doctors said I was okay.'

Due to her work, Irene was able to access a doctor who was a friend of hers. 'I asked him to take my blood and test me for AIDS. He looked at me like I was crazy. And then he said, "If you have AIDS, I won't deal with you later Irene. I have never worked with someone who

has AIDS." I told him to take the blood test. If the test came back positive, I would deal with the problem and find my way out.'

Irene's tests were sent to Australia. Two weeks later, Irene was diagnosed as HIV positive. She was the first HIV positive case in Vanuatu. A mixture of panic, depression and denial set in and before she even had the opportunity to consider her rapidly deteriorating condition, Irene was faced with yet more challenges. Her family was tested for the virus; her husband tested negative, and was quick to leave Irene and their children as soon as he got back his results. But Irene's one-year old daughter, Zara, tested positive. Had there been appropriate antenatal screenings for HIV, Irene would have been able to learn about her status earlier on, and would have more than likely been able to prevent transmission of the virus to Zara.

Shortly after her diagnosis and very much against Irene's will, the Ministry of Health publicly declared the first cases of HIV had been found in Vanuatu. 'I didn't want to be declared, you know. I was afraid—for myself, for my children. I wanted to get rid of my file, burn it, have it disappear.'

Although Irene's name was not disclosed during the press conference, health workers leaked her identity to the community. 'My confidentiality was breached. People at the health centre started talking. People on the bus started whispering. Rumours started flying. People wouldn't touch or get near me.'

Effective treatments in the form of antiretroviral medicine has been available since 1996, replacing the notion of HIV as a situation of hopelessness to a manageable health condition. Yet, six years later when Irene was diagnosed, Vanuatu had not recognised HIV as a health issue that needed to be addressed and there was no system in place to provide her and Zara with the necessary medical attention they required.

Irene's only option for treatment was to fly to New Caledonia. Although she was still receiving her salary as a nurse, Irene was unable to afford the expense of the trip. The Ministry of Health refused to provide her with financial assistance, and the

Vanuatu Consular in New Caledonia refused to receive her and Zara. With the help of her family, Irene was able to collect enough money for the trip. Yet, once in New Caledonia she realised that she would only be able to take back enough medication to cover her and Zara for three months, which meant she would need to make another trip when she had used up the supply.

**While Jan's rights have been protected and upheld since she was diagnosed, Irene's journey has been plagued with discrimination, lack of access to appropriate medical care and social services, and breaches of confidentiality.**

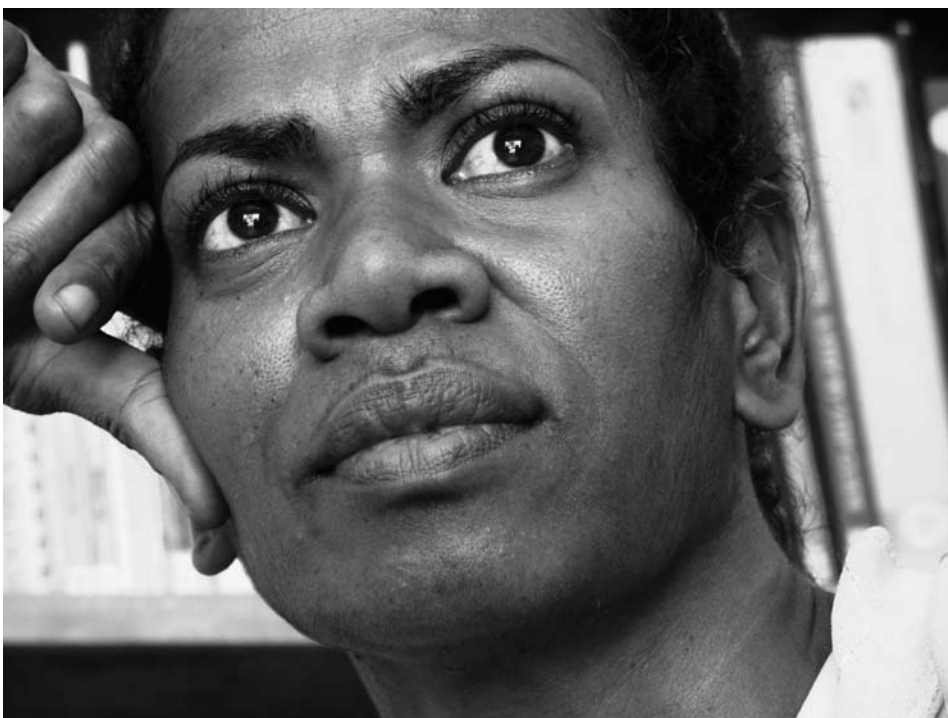
Shortly after her arrival home from New Caledonia, Irene lost her job as a nurse. This is when she decided to go public about her status. 'Because people had never heard about HIV, they had no knowledge on transmission and prevention. For many of them, being HIV positive meant you were a contagious monster – they wouldn't touch you for fear of becoming infected. And I wanted to change that. Anyone can be HIV positive – anyone. We are all at risk of the virus as long as we don't understand how it works.'

Irene now works advocating for the elimination of discrimination and to increase prevention, treatment, care and support for people living with HIV and AIDS. She travels extensively within the Pacific region, sharing her experience with others, seeking to break the stigmas around HIV and, more importantly, making sure people have access to information on prevention and treatment of the virus.

Since Irene disclosed her status in 2002, three more people in Vanuatu were declared HIV positive; all three have developed AIDS and subsequently died. Irene and Zara are presently the only two people living with HIV in Vanuatu. The Global Fund now covers the expense of their antiretroviral medicine.

Lack of information, and in many cases, misrepresentation of information by media, has led people to develop deep fears and prejudices on HIV. In Vanuatu, as in many other places in the Pacific, misconceptions have become rooted at the core of societal principles, stigmatising those living with HIV as outcasts.

This problem of discrimination and stigma is global. Jan recalls the reaction of her family when she first disclosed her status to them. 'Socially, because most of my friends were in the medical profession, they had a clear understanding of my situation. But my children, who live in the UK, didn't know anybody living with HIV. The only thing they knew was what they read, which is that millions of people are dying of this.' Jan and her family began reading and learning more about HIV, realising for the first time how the virus would affect their lives, and how no one is exempt from contracting HIV.



Photos: Pedram Pirnia and Asia Pacific Alliance.

In Vanuatu there are still no comprehensive, universally accessible, high quality services for testing and treatment of HIV, as is the case in most Pacific Island nations. It is likely there are more cases of HIV in Vanuatu, yet a lack of understanding and fear of discrimination leads people to avoid testing, thus inhibiting awareness and knowledge of prevention, care and treatment of HIV. With half of the country's inhabitants under the age of 20 and the lack of information on prevention and transmission of the virus, the threat of an HIV epidemic in Vanuatu is real.

HIV is intrinsically linked to most, if not all, articles in the *Universal Declaration of Human Rights*. People living with HIV should be able to live free from discrimination and in dignity; access education, information and necessary medical care; have the choice to participate in their communities; receive special care and assistance for mothers and children; and enjoy healthy sexual and reproductive lives.

While the realisation of many of these rights is related to community response and knowl-

edge of the virus, HIV challenges the responsibility and accountability of governments more than any other modern epidemic. The lack of discussion by politicians on sexuality, gender inequality, and demystifying methods of transmission has resulted in scant resources being devoted to establishing effective global HIV intervention strategies. Information is power, and remaining silent on issues related to HIV is a failure to respect fundamental human rights.

People like Jan and Irene break the silence, giving a face and a voice to the lives of those living with HIV. And most of all, by sharing their experience with the rest of the world they remind us that HIV is ruthlessly impartial and does not discriminate – so why should we.

**Carina Gallegos** is Communications Coordinator at Family Planning International Development (FPAID) [www.fpaid.org.nz](http://www.fpaid.org.nz).



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# Human Rights and Development

**MARY LLEWELLYN-FOWLER** takes a look at the history, advantages and application of the rights-based approach to development.

**R**ights-based approaches' to development have taken hold of the development world over the past decade. Typically, rights-based approaches involve projects that strengthen the ability of rights-holders (citizens) to claim their rights and the ability of duty-bearers (the state and its institutions) to fulfil their obligations.

Proponents of rights-based approaches argue that they turn development from an act of charity to one of legal obligation. This is because the standards set out in the international human rights framework are binding under international law, unlike those included in normal development frameworks such as the Millennium Development Goals. The legal basis of rights-based approaches has two main benefits. Firstly, it empowers development beneficiaries, shifting them from passive recipients of aid to active, rights-holding citizens claiming what is theirs by legal entitlement. Secondly, by identifying which human rights are being denied to whom, by whom and why, rights-based approaches reveal local and global power relationships.

## SO WHAT INFLUENCED THE RISE OF RIGHTS-BASED APPROACHES TO DEVELOPMENT?

The end of the Cold War was central. During the Cold War, human rights were polarised along ideological lines. On the one hand, capitalist states emphasised the more individual civil and political rights. On the other, communist states emphasised the more communal economic, social and cultural rights. This polarity relates to underlying debates around the role of the state – should it provide social services; should these be left to the market; or is there a middle way? While the end of the Cold War did not answer these questions, it did allow space for political leaders to reaffirm that, in reality, the two sides of the human rights framework are indivisible: without a political voice, it is virtually impossible to claim economic and social rights, and without the provision of basic needs, it is very difficult to assert civil and political rights.

A second influence was the failure of mainstream neo-liberal development models to reduce poverty and inequality. During the 1980s and 1990s, a mounting body of evidence suggested that growth focused development was not improving the lives of the people who needed it most. In response,

development practitioners began to look for alternatives. As they did, they realised the potential of the human rights framework to change development's focus from growth to poverty reduction. The development community's interest in human rights coincided with the political reaffirmation of the indivisibility of rights. Together, these factors established the foundations of today's rights-based approaches to development.

## SO WHAT DOES THIS MEAN FOR THOSE WORKING ON THE GROUND IN DEVELOPING COUNTRIES?

It is at this level that the rhetoric of human rights and development meets local realities, and that human rights gain real meaning. Last year I travelled to Suva, Fiji, to discuss with local NGO representatives the challenges of putting rights-based approaches into practice. One of the most interesting and unexpected challenges that emerged from these discussions was the perception of a gap between the work of human rights organisations and that of development ones. As one representative from a human rights NGO described it:

*For many traditional development NGOs... people like us, advocacy organisations who are...focusing on civil and political rights, they think that we are working on theoretical things, that we're not dealing with bread and butter issues.*

Another representative from a development NGO argued that some NGOs tend to have a

very selective interpretation of human rights: *How is it that we've got 60% of our population earning wages below the poverty line and nobody says anything about that? What about the right to work for a just wage? Why are we talking about civil and political rights and not about economic and social rights? It's very much the American way.*

The perception of a gap between human rights organisations and development ones reflects the traditional ideological division between the two sides of the international human rights framework. It suggests that despite the post-Cold War reaffirmation of the indivisibility of human rights, this division continues to influence the way people think about and campaign on these issues. This poses a significant challenge to the practice of rights-based approaches to development. However, it also suggests that such approaches have an important role to play in opening up the debate and in bringing the two sets of rights closer together.

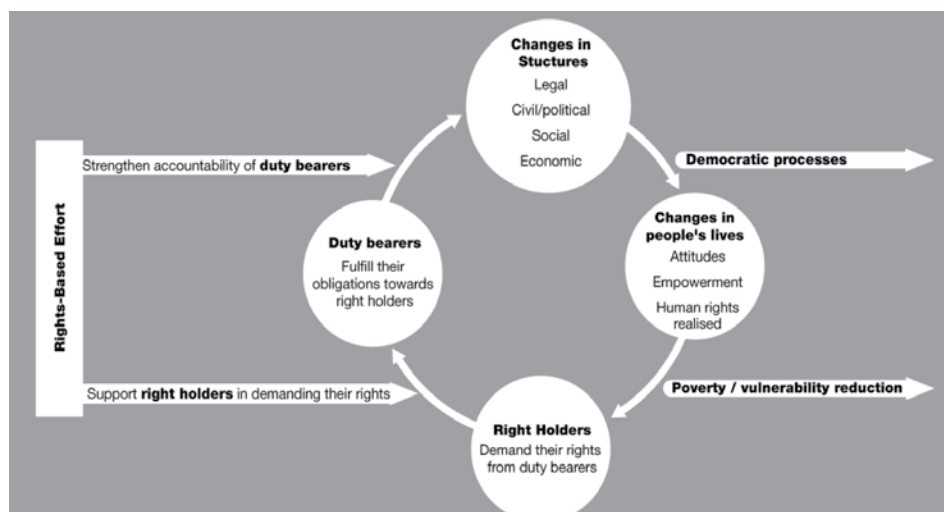
One of the most useful things a rights-based approach can bring to mainstream development is the importance of taking a holistic perspective, of recognising that people not only need food, clothing and shelter, but also the political voice with which to claim them.

*From a development perspective, one of the most important human rights standards can be found in Article 25.1 of the Universal Declaration of Human Rights.*

*This states that:*

*Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services.*

*Mary Llewellyn-Fowler completed her Masters of Development Studies in 2007 at Victoria University and is now working on social policy at the New Zealand Treasury.*



**Table taken from:** Ljungman, C. M. *Applying a rights-based approach to development: Concepts and principles*. Paper presented at the Winners and Losers from Rights-Based Approaches to Development Conference, Manchester University, 2005, p. 8.

# Media cover of West Papuan refugees in Papua New Guinea: 'MY BROTHER, MY ENEMY'

The media plays an essential role in bringing human rights abuses to the attention of the general public and this is often the first step in stopping them.

**EVANGELIA PAPOUTSAKI** and **PATRICK MATBOB** investigate the role of the media in reporting the human rights situation on the West Papuan Border of Papua New Guinea (PNG).

There are currently more than 10,000 West Papuan refugees in PNG, of which 3,400 are living in the East Awin refugee camps administered by the office of the United Nations High Commissioner for Refugees (UNHCR) and the Border Affairs Division of the PNG Government. The remaining 7,000 are living in eight camps close to the PNG border and are not recognised as refugees. They are getting assistance from a few expatriate staff, missionaries and volunteers who are providing basic services.

According to the UNHCR, the PNG government acceded to the 191 Convention and 1967 Protocol relating to the Status of Refugees and in 1996 endorsed a 'Limited Integration' policy that allowed West Papuan refugees who had been relocated to East Awin to be granted Permissive Residency status. As permissive residents they enjoy (conditional) freedom of movement, can engage in business activities, enrol in PNG schools and tertiary institutions, and access health facilities. Restrictions include not residing in the border areas of Western and Sepik Provinces, not engaging in political activities, not having voting rights and not having the right to membership of political parties.

The issue of refugees and their human rights, along with the overall struggle for West Papuan independence from Indonesia, have gone largely unnoticed by the international media and are sporadically covered by regional media.

PNG is the only neighbouring country that shares not only land borders but also a Melanesian heritage with West Papua. A number of West Papuan activists have found refuge in PNG, such as Moses Werror, the chairman of the Oganisasi Papua Mederka (OPM), who has been living in PNG for several years and still has no clear legal status. The noticeable decline and current lack of media coverage



From left: Moses Werror, OPM Chairman (living in PNG), the late Theys Eluay, OPM Praesidium Chairman until his assassination and two other West Papuans at the West Papuan Congress in Jayapura in 2000. Photo: Moses Werror.

is not, therefore, easily justifiable. Although there are a number of contributing factors, one cannot disregard the impact of regional geopolitics, especially PNG's increasingly close relationship with Indonesia, and Australia's influence on PNG's regional politics.

In 1969, Somare, PNG's current Prime Minister was a member of the Papua and New Guinea's Territorial Assembly under Australian rule. He accused Australia of maintaining 'concentration camps' along the border for West Papuan asylum seekers and said of the situation in the neighbouring territory:

*We often hear the UN condemning European colonialism but it never thinks of condemning Asiatic colonialism, and this is what is happening now on our border and it is colonialism on the part of Indonesians.*

Somare was later to become a leader that Indonesia would call 'a good friend'. The predicament that Somare found himself in, from being a critic to a friend of Indonesia, is one that is shared by other Melanesian leaders and people in PNG. Most Papua New Guineans sympathise with and support the cause of their Melanesian neighbours but are forced to also acknowledge Indonesia's sovereignty.

The PNG media coverage of the West Papuan refugees reflects this dilemma by labelling people fleeing West Papua as both 'border crossers' (used to describe traditional crossers) and 'refugees'. For example, a *Post-Courier* headline in 1984 announced, 'Future

of Irian Jaya refugees in doubt', while the lead paragraph of the same story read: 'The future of Irian Jayan border crossers is still uncertain, according to the Justice Minister, Mr Bai'. The PNG government chose to call these people 'non-traditional' or 'illegal' border crossers, although the status of the West Papuans fulfilled the criteria of being classified as refugees which avoided offending the Indonesian government which preferred the safer term 'border crossers' rather than 'refugees' which would attract UNHCR and the world's attention.

The number of West Papuans fleeing their homes for PNG rose dramatically in 1984. Not wanting to upset Indonesia, the PNG government not only refused to recognise these people as refugees but also went to the extent of prosecuting them for illegally crossing the border with a view to repatriating them. The general reaction in PNG was one of outrage and the government was heavily criticised.

The PNG government tried for a while to prevent UNHCR access to the refugees in the hope of preventing the issue being internationally recognised. It also stopped churches and NGO groups from providing humanitarian aid. However, the PNG media was generally sympathetic to the plight of the West Papuan refugees, and continued to highlight the issue. There was a serious backlash to the government policy to play down the grow-



ing refugee problem when Pastor Roy Woods of the Evangelical Church of Papua revealed that 51 refugees had starved to death in one of the camps.

The report was published by the *Post-Courier* and graphic pictures of starving and dying women and children at the camps were displayed in *The Times of Papua New Guinea*, juxtaposed with a headline that read: 'Holiday camps?' This referred to a comment made a few weeks before by a PNG government Foreign Affairs official who had said, 'We do not want people coming across the border for a holiday'. These reports stunned the PNG government into action in recognising the crossers as refugees and allowing UNHCR to become involved.

Several factors contributed to putting West Papua on the PNG media agenda at the time. The post-war publicity on the decolonisation process in the Pacific region included West Papua among the emerging nations. There was also a new breed of educated Papua New Guinean nationalists during the years of independence, some of whom ended up working in the media and were directly responsible for promoting the West Papuan cause, while some journalists of West Papuan origin helped to create interest amongst their PNG counterparts.

However, from the early 1990s onwards the media coverage started declining, resulting in very meagre reporting of the West Papua issue and the conditions of the refugees. The refugees are often in a vulnerable position and at times mistreated by locals from nearby villages or those authorised to care for them. There is regular information on the UNHCR website that journalists can access, such as stories on constant tensions between the refugees and Papua New Guinean landowners or PNG government authorities, that rarely get in the media.

The reporting by Australian media of plans to divert some asylum seekers back to PNG received no attention in the PNG media at the time. In recent years, a number of West Papuans have started seeking asylum in Australia rather than in PNG. They seem to attract more regional and international media attention, and as West Papua activists believe, more publicity for their cause.

The Indonesian government representatives in PNG have also been successful in recent years in improving their image in association with the coverage of West Papua in the PNG media. In the 1970s and 1980s, the Indonesian embassy in Port Moresby was having great difficulty handling the negative image of Indonesia in the PNG media. In fact, the standard reaction was to make no comment when journalists sought information concerning West Papua. A former editor of the *Wantok* recalls that the policy of her

newspaper then was 'to always verify the news that we got with the Indonesian embassy here in Port Moresby. Most of the time we did not get any response at all'. However, this changed in the 1990s with Indonesian officials taking the initiative to invite journalists to the embassy for functions and to organise trips for them to visit West Papua and other parts of Indonesia.

The governments of PNG and Indonesia have also formalised bilateral agreements, which have benefited a number of PNG organisations, including the journalists. More positive stories about Indonesia have been appearing in the media from time to time. *The National* for example had a story on an Indonesian sponsored trip of PNG teachers from the Sepik region (bordering West Papua to the north) in order to learn Bahasa Indonesia in Bali with the aim of preparing PNG students to take further studies in Indonesia.

A study by Papoutsaki and Matbob in 2006 found that the coverage of Papuan refugees in PNG has declined to a minimal and superficial level. Direct sourcing of information has also declined as PNG press seems to rely heavily on international news agencies to cover the West Papua situation on both sides of the border and West Papuan voices have been reduced as the PNG press relies more heavily on official sources. In regards to geopolitical

influence, PNG press cover of West Papua depends on Australian media cover and on stories that affect mostly Australia directly on the Indonesia/West Papua issue. The increasing positive media coverage of Indonesia indicates the growing importance that PNG places on its relationship with Indonesia.

When covering the issue, news media need to contend with the geopolitical complexities involving Indonesia's growing political influence in the region. This influence discourages neighbours and the international community from taking a position on what is considered a national matter out of fear of destabilising the country and the region.

As the West Papuan conflict remains unresolved, keeping it out of regular media reporting can only contribute to the deterioration of the situation as the frustration of West Papuans increases. With a conflict like this on its doorstep, PNG cannot keep turning a blind eye, especially because it hosts so many West Papuans.

**Evangelia Papoutsaki** is a Senior Lecturer at the School of Communication, Unitec and Research Associate at the Pacific Media Centre, New Zealand.

**Patrick Matbob** is a Papua New Guinean journalist and journalism lecturer at Divine Word University, Madang, PNG ([pmatbob@dwu.ac.pg](mailto:pmatbob@dwu.ac.pg)).

## Appeal for help from West Papuan refugees

THE *JUST CHANGE* EDITORS RECEIVED THIS LETTER IN MAY 2008

We are a group of 146 West Papuan political refugees in Port Moresby, Papua New Guinea (PNG). It is now 54 years since West Papua was transferred to Indonesian rule – 54 years of bloodshed, brutality, killing, rape and torture since our land was invaded.

On 21st September 2007, the PNG police force gave us a final eviction notice from the land we had lived on for 20 years since fleeing the violence in West Papua. Two days later, police came back with a bulldozer and hacked down our banana plants as a violent warning. We were forced to leave the land.

We moved to the United Nations High Commissioner for Refugees (UNHCR) office to seek resettlement to third countries. From that day up till now, we have become homeless. We currently reside in the backyard of the Boroko police station, living in a tent. We have been here for more than six months.

Now we have nowhere to go. We have been told to go back to West Papua under the 'special autonomy' package offered by the Indonesian government, but this package is really a crackdown of the Free West Papua Independence movement (the OPM) and an attempt at political manipulation and cultural assimilation; it could also be called 'genocide'. West Papuan refugees like us are victimised by the governments of both PNG and Indonesia under the autonomy package. It is against our will for independence. The UNHCR is also just watching the human suffering without thinking of our welfare – this is injustice.

I would very much appreciate your sympathy towards our situation.

For more information about West Papua, and to learn about how you can take action on this issue, visit [www.freewestpapua.com.au](http://www.freewestpapua.com.au).

# The right to information & human rights in the Pacific

**CLAIRE CRONIN**, external collaborator with the Commonwealth Human Rights Initiative (CHRI), discusses how right to information (RTI) laws are often essential for the realisation of a wide range of other rights.

**M**ore than 60 years ago, in 1946 the UN General Assembly asserted that freedom of information was the 'touchstone for all freedoms to which the United Nations is consecrated'. The right to information is not well known or commonly discussed in the Pacific, but it is a fundamental right with a pivotal role in the human rights discourse.

The right to information is enshrined in the *Universal Declaration of Human Rights* and finds international legal protection in Article 19 of the *International Covenant on Civil and Political Rights*, which states that 'Everyone shall have the right...to seek, receive and impart information and ideas of all kinds, regardless of frontiers'. The right to access information is not merely important as an aspect of freedom of expression. It is also a practical tool for bringing about the full realisation of all other human rights. Access to information law – commonly referred to as freedom of information (FOI) laws in the Pacific region – provide a means by which people can come to know about their entitlements, identify when their rights are being violated and hold governments to account for their constitutional and international human rights obligations.

Over 70 countries worldwide have passed RTI legislation including Aotearoa NZ, Australia, and most recently the Cook Islands, which passed its *Official Information Act* in February 2008. Countless case studies from around the world demonstrate how these laws have proven to be powerful tools for enabling individuals, the media and civil society to advocate successfully for a range of human rights and social justice objectives. From the right to be free from torture and inhuman treatment, to the right to a healthy environment, RTI laws have empowered civil society to demand that legal and policy commitments are translated into practical realities that benefit people's lives.

In India, where it is estimated that more than 40% of the population lives below the poverty line, poor communities used Delhi's *Right to Information Act* to realise their right to food. People wanted to find out why they were not receiving the subsidised food grains that they were entitled to under the Public Distribution System (PDS). They used their state freedom of information law to request copies of the PDS

distribution records. The records revealed huge discrepancies between what PDS shopkeepers had claimed to have distributed and what had actually been received. It became apparent that over 80% of cheap wheat and rice was being siphoned off and sold on the black market. As a result of this discovery, a complete overhaul of the PDS was ordered.

Closer to home, women in Australia used their freedom of information law to fight for their right to life, and the highest attainable standard of health. Women used the law to ask why the Federal Government had refused to subsidise *Herceptin* – a breast cancer drug with the potential to save hundreds of lives. The information was refused, but the pressure generated by the request led to the eventual subsidisation of the drug under the Australian Pharmaceutical Benefits Scheme. The importance of access to information was reiterated when the Aotearoa New Zealand government's Pharmaceutical Management Agency showed that only the results of the most favourable trials of *Herceptin* had been published, biasing the very information the pressure was based on.

Although many Pacific Island countries have recognised the importance of the right to information, few have enacted specific laws guaranteeing its protection. The Constitutions of the Federated States of Micronesia, Fiji, Kiribati, the Solomon Islands and Tuvalu all recognise the right to seek and receive information as part of the right to freedom of expression. The Papua

New Guinea Constitution explicitly recognises the people's right to access official documents. *The Constitution of Fiji* requires that Parliament pass FOI legislation but this article has not yet been implemented. The Cook Islands has paved the way with the enactment of its *Official Information Act* in February 2008 and has set an important precedent for other Pacific Island governments.

In the Pacific, where there sometimes exists a tendency to distrust concepts such as 'human rights' and 'good governance' by policy-makers, the right to information offers a unique way of ensuring that respect for rights evolves organically from the grassroots, rather than being promoted by external actors. The right to information is at the heart of democracy as it empowers ordinary people and communities to ask questions of their government and re-engage with the decisions and programmes that impact on their daily lives.

Pacific rights NGOs would do well to advocate for the right to information in support of their central mandates. RTI legislation can assist NGOs, their members and ordinary people to more effectively promote human rights, sustainable development and participatory democracy.

*This article pre-empts the release of the CHRI collection of RTI case studies **Our rights, our information: Empowering people to demand rights through knowledge**. To find out more, go to [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org).*



Activists from the Association for India's Development U.S. demand that the Indian government withdraw its amendments to curtail the *Right to Information Act*. Photo: Association for India's Development (AID).





## Trading away our rights? Free trade and human rights in the Pacific Islands

In this article, **WESLEY MORGAN**, from the Pacific Network on Globalisation, argues that by pursuing an aggressive free trade deal with ex-colonies in the Pacific, the European Union (EU) risks undermining human rights in the region.

**D**uring 2008, the EU is looking to sign off on new free trade deals with 76 countries in Africa, the Caribbean and the Pacific (ACP) that it says will provide new investment and improvements in the business environment in those countries. The EU has tried to make these deals seem as 'development-friendly' as possible, by naming them Economic Partnership Agreements (EPAs). However, the European Commission (who is responsible for negotiating free trade agreements on behalf of EU governments) has come under fire for pursuing EPAs that are ultimately about the EU's own trade interests.

A recent Oxfam publication, *Partnership or Power Play*, reports that outside the official negotiating room, trade experts, academics, parliamentarians, World Bank and UN officials, not to mention farmers' organisations, trade unions and NGOs, have all raised concerns that the deals would be bad for development, would endanger livelihoods, and would deny ACP countries the flexibility to use the policies they need in order to develop.

One of the more serious concerns raised is that the EPAs would undermine human rights, particularly the right to the highest attainable standard of health, by making medicines more expensive in ACP countries. Intellectual property rights are often included

in free trade agreements with the aim of protecting the patent rights of pharmaceutical companies and giving them a monopoly over the production and sale of that drug in the agreement's party countries. However, competition in drug manufacturing, particularly the introduction of generic drugs to compete with monopoly patents, leads to cheaper medicines – sometimes up to 95 % cheaper. Therefore signing agreements that protect or extend the patent rights of pharmaceutical companies can put medicines out of reach of many people, especially the poor in developing countries.

Under the World Trade Organisation (WTO) agreement on Trade Related Intellectual Property Rights (TRIPS), pharmaceutical companies are granted a 20 year monopoly on the use of a patented invention. The intellectual property rights provisions the EU is seeking to include in an EPA with Pacific island countries remain top secret, but the terms of the EPAs already signed with countries in the Caribbean are 'TRIPS+' provisions – they go well beyond those required by the WTO.

Of the 14 island countries in the Pacific Islands Forum, only four countries are even members of the WTO, and TRIPS do not apply to most Pacific Island countries.

What are the consequences of EPA trade deals for people in need of medicine in the Pacific? Photo: Asia Pacific Alliance.

Signing a TRIPS (or TRIPS+) style agreement as part of an EPA would prevent Pacific countries from importing or manufacturing generic medicines and providing them to the public at much cheaper rates.

This could prove to be particularly important for Pacific Island countries facing the growing health burden of an HIV and AIDS epidemic.

Even by pursuing TRIPS or TRIPS+ style provisions as part of EPA negotiations with Pacific Island countries, European governments are in contravention of their own human rights obligations in relation to health. Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which most EU States are party to, state parties are obliged to take steps (individually or through international assistance and cooperation) towards the full realisation of the rights set out in the covenant. In relation to the right to health, this includes the obligations:

- to respect the right to health in other countries;
- to give due attention to the right to health in international agreements; and
- to take steps to ensure those agreements do not adversely impact on the right to health. (article 12, as interpreted by the Committee on Economic, Social and Cultural Rights General Comment No. 14 (2000)).

Clearly, even the act of putting on the negotiating table an agreement that would have the effect of making medicines less accessible in Pacific countries comprises a failure of the EU to meet its human rights obligations.

Signing a trade agreement that makes medicine less accessible to the poor in their countries would also be in contravention of the human rights obligations of Pacific Island States that are party to the ICESCR. Pacific governments should not sign into law any EPA (or interim-EPA) until independent evaluations and impact assessments of those agreements have been completed. Concern about intellectual property rights provisions and their implications for access to medicines is just one of many concerns about these far reaching agreements.

We know that any EPA with the EU is unlikely to attract any new significant business investment in the region. If a free trade deal undermines human rights in the Pacific, and is detrimental to development in the region, then Pacific Island Governments really have no reason whatsoever to sign them.

For more information, see [www.pang.org.fj](http://www.pang.org.fj)  
**Wesley Morgan** is the Information, Education and Communications Officer at the Pacific Network on Globalisation. Suva, Fiji.

# BEYOND 5 DECEMBER

On 5 December 2006, Fiji's military commander, Commodore Frank Bainimarama, led a coup and replaced the democratically mismanagement, corruption, and policies that contain elements of social discrimination and threats to national security. The takeover have been accompanied by alleged breaches of human rights. Here, two authors give us their points of view on what

## Fiji's interim government: Short-term struggle for long-term benefits

In this article, **VILIAME GABERIEL** looks briefly at what changes have occurred since the coup and how human rights have been affected. He argues that although rights violations have occurred, Fiji will experience benefits in the long-term.

**T**he interim government has made several changes in the interest of long-term stability; some of these are:

- Formation of the Independent Commission Against Corruption to eradicate systematic corruption and economic mismanagement.
- Formation of the *People's Charter for Change* (PCC) to provide a better platform for governance in Fiji in alignment with the 1997 Constitution, in the areas of governance, economy, reform of public services and financial institutions, land, and social and community sectors. To ensure the objectives of the PCC are accomplished, the National Council for Building a Better Fiji was formed and endorsed by Cabinet in 2007 after 80% positive feedback from important public figures and NGOs.
- Indefinite suspension of the Great Council of Chiefs after the coup, as they continued to go against the military's actions, and the creation of a Commission to work on an appropriate system of traditional representation on the Council.
- Appointment of an Electoral Boundaries Commission (EBC) in 2006 to review the voting system and work toward ensuring a fairer representation of voters.

Despite these positive changes, the news on violations of human rights after the coup are real. Two people have died, activists have been sent to military camps, media have been controlled and foreigners deported or blacklisted as a result of events after the takeover. However, these cases do not constitute real threats to the basic human rights of the Fijian people. These numbers are not in the masses.

The real threats to basic human rights of the people lie in their current socio-economic realities. Rights to paid employment, fair income, and proper livelihood have been breached due to a deteriorating economy. The interim government has a mandate to steady Fiji's economy to achieve economic growth and correct economic mismanagement. However, the economy does

not look promising, with inflation reaching the 7% mark, the unemployed unable to find work and the government forced to reduce its size. A high inflation level means depressed real incomes for workers. Many people have lost their right to paid employment, leaving Fiji vulnerable to increased poverty as people struggle to fulfill their basic needs.

The tourism industry was particularly hard hit when Fiji's major tourist supply markets such as Australia and Aotearoa NZ instilled security measures on travellers after the coup, resulting in job losses. Approximately 1700 jobs were also lost when a major mining company, Emperor Gold Mines (Fiji) Limited, closed down its operations in Vatu-koula. *The Fiji Times* recently published an article where a man stated that he cannot meet expenses for his family and has decided to stop his two children from going to school. This is a real case where a basic right to education is deprived due to financial hardship caused by a deteriorating economy.

The legality of the takeover – that is, whether there has been a breach of human rights under the 1997 Constitution – is currently under debate. Meanwhile, the reality is that although the changes made by the interim government are said to hold benefits in the long-term, they are associated with some short-term costs to the nation. I believe that the actions of the military after 5 December 2006 have at some stages violated the human rights of the people, but the events are minor compared to cases in Africa and South America – we do not live to see open warfare or the military shooting people in front of us.

The changes put in place by the interim government will be beneficial to Fiji in the long-term. We can only reap the benefits if we survive waves of hardship – some may even breach human rights of the people – but long term we may return Fiji to democratic rule, to a place where all people regardless of race or status are seen as one people.

*Viliame Gabriel is a Masters student in Development Studies at the University of the South Pacific in Fiji. This is a shortened version of a full referenced article that can be accessed through the Just Change website.*

Cartoon: Spike Mountjoy.



Fiji Women's Rights Movement staff at a World Human Rights Day March (10 Nov)



elected government, claiming there was economic changes pursued by his interim government since the has occurred and how Fiji can best move forward.

## Women human rights defenders in Fiji: Old challenges, new vulnerabilities and finding our way

**TARA CHETTY and VIRISILA BUADROMO**  
from the Fiji Women's Rights Movement  
call for women to lead the way in creating a new future for Fiji.

**W**omen human rights defenders have played an important role in Fiji's often turbulent history over the past 20 years. Activists, academics and advocates have spoken up, shared information, and sheltered fellow activists in the wake of the political crises and conflicts in post-independence Fiji. Today's

civil society, in the aftermath of Fiji's most recent political conflict, sits in very complicated terrain, and women human rights defenders are dealing with new vulnerabilities, while struggling to find a new way forward.

In December 2006, Fiji experienced its fourth coup d'état in two decades. Women human rights defenders were among the leaders of a citizens' group and the NGO Coalition on Human Rights that called for the commander and the leader of the re-elected ethno-nationalist government to come together for talks, and they continued to speak out for peace following the coup. They were quickly targeted for their activism, with threats and intimidation from the army and their supporters. Imrana Jalal, a human rights lawyer, was threatened with rape during an anonymous phone call which originated from a telephone near the Queen Elizabeth Barracks in Suva. Other activists were also threatened, and late on Christmas Eve 2006, three women human rights defenders were among the six people illegally detained at the Queen Elizabeth Barracks and beaten by the army for their links to pro-democracy activism.

These events are similar to the challenges and vulnerabilities women human rights defenders have faced over the last twenty years. In Fiji today, however, they face new challenges, one of the biggest being isolation. After each crisis in 1987 and 2000, human rights supporters stood in solidarity and spoke out for a return to democracy and the rule of law. Post-2006, Fiji's civil society is fractured along a 'rule of law' versus 'social justice' divide. Some women's organisations, such as the Fiji Women's Rights Movement and the Fiji Women's Crisis Centre, along with other NGOs and individuals, have continued to hold firmly to principles of human rights, democracy and the rule of law, speaking out against the military regime and refusing to acquiesce.

However, this has been an often lonely position as many former allies within civil society have seen the rhetoric of economic and social rights touted by the interim regime as a rare opportunity to serve their constituents. Others have simply chosen to work with the military-headed government because they see it as the only path to moving Fiji forwards. Added to

this mix is the Fiji Human Rights Commission, a human rights defender in 2000, but post-2006 it is now seen as a coup-apologist and has been largely discredited internationally. Fiji's judiciary has also been viewed with some concern since the coup with the removal of the Chief Justice, new appointments and the loss of many experienced judges from the Court of Appeal. Then there is the military regime's current attack on Fiji's media, which has included the deportation of two newspaper publishers in the last three months. Women human rights defenders are more isolated than ever before, with the traditional protection of such bodies compromised, and renewed attacks against the remaining level of protection, a free media.

It has taken four coups, but women human rights defenders have finally faced the truth that Fiji's coup cycle is more than an academic discussion, it is a destructive reality. The scars

of successive coups, associated violence, disillusionment and exhaustion have led to the strange landscape in today's Fiji—fractured civil society; jaded citizenry; and a military regime that speaks a twisted form of human rights while doing

ing a peculiar legal dance with Fiji's progressive 1997 Constitution. While women human rights defenders continue to call for elections as promised in 2009 and speak out about human rights, women leaders recognise that as a country we need more; we need to get out of our reactive crisis mode and look for shared spaces where we can deepen the conversations about what we want Fiji to look like after the next 20 years.

One such space is the NGO Coalition of Human Rights, which, while struggling, remains the only forum that bridges current civil society divisions and brings differing perspectives to the same table. We need to move past anger and territorialism to seek out these spaces, away from state or military-led initiatives, to help articulate a viable and more hopeful future for Fiji. After 20 years, women human rights defenders are well-equipped to lead the way.

*Tara Chetty is Communications Officer and Virisila Buadromo is Executive Director of the Fiji Women's Rights Movement. To find out more, go to [www.fwrm.org.fj](http://www.fwrm.org.fj).*



ber, 2007). Photo: Tara Chetty.

# Restricting some human rights while extending protection?

## A moral perspective on the Immigration Bill

BY LISA BEECH, CARITAS AOTEAROA NEW ZEALAND

**A** likely future scenario: a desperately unhappy and fearful traveller reaches New Zealand and asks for asylum. They seek protection because their treatment under their home country's legal system has breached their rights under the 1976 *International Covenant on Civil and Political Rights* (ICCPR).

Under proposed new immigration legislation (as it stood at the time of consideration of public submissions by New Zealand's Transport and Industrial Relations Select Committee), clause 121 of the *Immigration Bill* proposes extending protection to people whose human rights have been breached under articles 6 and 7 of the ICCPR.

The Bill, with a few reservations such as a clarification that protection does not extend to lack of access to health care, substantially accords with Articles 6 and 7 of the ICCPR, which include:

- 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life' (Art 6); and
- 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment' (Art 7).

However, in considering the case of the fearful traveller, the same Bill would allow the New Zealand immigration process itself to breach natural justice rights recognised in Articles 9 and 14 of the ICCPR. Article 9 refers to the right to freedom from detention, and to be informed of the reasons for any detention; article 14 concerns people's rights to due process before a court, including minimum guarantees in determining charges against them.

Under the proposed legislation, clause 5 extends the definition of classified information which will not be disclosed, and clauses 34-36 extend the use of classified information

in decision making, meaning that asylum seekers could be detained without being told in full of the accusations made against them.

Clauses 235-237 provide for the appointment of special advocates who are allowed access to classified information but may not reveal it to their client, while clause 238 specifically limits communication between a special advocate and their client. This severely restricts the ability of an accused person to effectively respond to accusations against them or to cross-examine witnesses. Numerous places in the Bill limit existing appeal rights. For example, clause 26 gives astonishingly wide powers to a decision maker including the refusal to give reasons for a decision.

So, in our scenario above, as a future New Zealand tribunal considered whether our theoretical asylum seeker was entitled to protection on the basis of breaches of rights in their home country, the New Zealand process to decide their future could itself allow further ICCPR breaches.

The Ministry of Justice acknowledged possible natural justice concerns in the *Immigration Bill*, stating in their Bill of Rights Assessment that 'it is possible to argue that the failure to disclose all information constitutes a prima facie breach of section 27(1) of the Bill of Rights Act' (paragraph 153). However, the same document says that in the immigration context, natural justice provisions in the Immigration Service's operations manual 'are sufficient in the immigration context to satisfy the minimum requirements of natural justice as affirmed in section 27(1) of the Bill of Rights Act. This is because non-citizens and non-permanent residents have no right to enter or remain in New Zealand' (paragraph 167).

The Ministry does not believe this advice suggests that non-citizens are not entitled to natural justice, but in Caritas's view, this implies a lower standard of natural justice

for non-citizens. The Catholic Church does not claim legal expertise, but rather brings a moral perspective – do our laws enhance or detract from the recognition of human rights and dignity?

Natural justice is about ensuring procedural fairness. Catholic social teaching does not accept that human rights, including natural justice rights, are 'flexible' or to be balanced against other considerations such as national security, or applied differently to different groups of people. Only months before the first reading of the *Immigration Bill* in 2007, Pope Benedict XVI stressed that there can be no relativism in relation to recognition of human rights, where some people are recognised as having permanent dignity and rights that are valid always, 'everywhere and for everyone', while other people are seen as having changing dignity and constantly negotiable rights, with regard to content, time and place.

The *New Zealand Bill of Rights* is itself only our local reflection of international human rights norms, such as those recognised by the ICCPR. Caritas believes our domestic legislation should recognise the human rights of all people affected by our processes, particularly the vulnerable refugees, asylum seekers and immigrant workers facing our immigration bureaucracy.

*Caritas Aotearoa New Zealand is the Catholic agency for justice, peace and development. In a joint submission with the New Zealand Catholic Bishops' Conference, it opposed aspects of the Immigration Bill that are contrary to natural justice.*

*This article was written before the Select Committee was due to report back to Parliament on 30 June. The Bill has cross-party support from both the Labour and National parties, and is expected to be passed before the election. This is an abridged version of this article. The full version is available on the Dev-Zone website.*

### RESOURCES FROM THE DEV-ZONE LIBRARY

HE RAUEMI MAI I TE KOHINGA A DEV-ZONE

**Documentaries that changed the world: vol. 2: John Pilger's Australia.** John Pilger and Alan Lowery (Directors). Australia: DV1, 2006.

Pilger and Lowery offer an uncompromising look at the social and political shifts for both Aboriginal and white Australians and the changing perceptions of Australia on the domestic and international stage.

**Time and tide.** Julie Bayer and Josh Salman (Directors). Longbeach, CA: Wavecrest Films, 2007.

This documentary shows how the small Pacific island of Tuvalu and its people are being irreversibly impacted upon by globalisation and climate change.

**The black road: On the front line of Aceh's war.** William Nissen and Lawrie Silvestrin (eds.). USA: William Nissen, 2005.

This film is a painful, harrowing account of a journalist determined to find the truth and tell the world the underlying story behind the Acehese and their long struggle for independence.

**Squeezed: the cost of free trade in the Asia-Pacific.** Dominic Allen (Producer) and Michael Cenbon (Writer). Australia: Global Trade Watch, 2007.

Squeezed tells the story of how globalisation and free trade agreements are changing the lives of millions of people living in the Asia Pacific region.





# Pacific disillusion:

## Will the end of Australia's Pacific Solution mean better treatment for asylum seekers in the South Pacific?

In this article, **LIZ NICHOLLS** takes a look at the human rights implications of the Pacific Solution and hopes for a new way forward for asylum policy in Australia.

At the end of 2007, the Australian Labour Government brought the Pacific Solution to a close. Australia's policy of diverting asylum seekers to small Pacific islands between 2001 and 2007 was controversial and received criticism from Australian human rights groups. The new government under Kevin Rudd took decisive actions to dismantle detention centres in the Pacific and the last offshore detention centre on Nauru was closed in February 2008.

### THE PACIFIC SOLUTION

In August 2001, the cargo ship, *MV Tampa*, rescued 433 Afghani and Iraqi asylum seekers from a sinking boat. The *Tampa* was refused entry to Australian waters, but entered regardless. It was boarded by the Australian Special Air Services and the passengers were removed to Nauru. An agreement was made between the two governments that Nauru would house the asylum seekers in return for economic aid until a decision could be made about their future.

The concept of using a third country outside of the Australian migration zone to process asylum seekers became government policy following the *Tampa* issue. To further entrench the policy, the *Australian Migration Act 1958* was amended in September 2001. These changes included removing some territories from the Australian migration zone to prevent asylum seekers from landing on outlying islands and claiming asylum in Australia and also placed tougher restrictions on the process for claiming asylum. The policy has since become widely known as the Pacific Solution.

### EFFECT ON ASYLUM SEEKERS

The 1951 *United Nations Convention relating to the Status of Refugees* declares that a refugee is a person who,

*due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.*

An asylum seeker is a person who claims upon arrival in a new country that they meet the criteria in the Refugee Convention. The Pacific Solution allowed Australia to assess claims while detaining asylum seekers outside the Australian border.

Human Rights organisations have criticised the Pacific Solution, arguing that the long periods of detention have negative psychological effects on asylum seekers. The UN states that:

*Liberty is a basic fundamental human right...detention is only acceptable if it is brief, absolutely necessary, and instituted after other options have been implemented.*

The policy was also criticised for encouraging the detention of children, contravening the *United Nations Convention on the Rights of the Child*.

### EFFECT OF CLOSURES ON NAURU AND MANUS

The policy had a profound effect on the islands that were acting as temporary holding centres. Australia provides Nauru with nearly half of its aid and the financial incentive that the Australian government provided to Nauru and Manus Island to house the detention centres was impossible for the small islands to decline. The detention centres also provided jobs for Nauru residents, paying at up to four times what they could receive from previous work on the island. The closure of the detention centres leaves many residents without income. In 2008, Nauru has exhausted many of its eco-

unresolved issue of processing times, many detainees repeatedly asking, 'why the time when there is no crime?'

Refugee centre Christmas Island. Photo: Project Safecom.

conomic opportunities, leaving the island with an uncertain social and economic future.

### AUSTRALIAN ONSHORE DETENTION CENTRES

With the closure of the Pacific island detention centres, Australia relies on its five onshore detention centres and a few residential housing facilities to hold and process asylum seekers. An independent report on the centres published in January 2007 noted that improvements had been made. However, some services and programmes were found to be lacking and were not extensive enough to alleviate mental health problems among refugees and asylum seekers. In addition, appropriate facilities and programmes were not available for children being detained. A report by the Human Rights and Equal Opportunity Commission recommended improvements in programmes and services. The central issue, however, was the unresolved issue of processing times, many detainees repeatedly asking, 'why the time when there is no crime?' By detaining adults and children for long periods of time, is Australia continuing to violate two UN Conventions?

### SOLUTIONS?

While on a diplomatic trip in April 2008, the Australian Prime Minister suggested that China had a responsibility to improve its human rights record in Tibet. While the Rudd government is taking steps towards making Australian social justice reparations, the country has a long way to go before it is in a position to avoid the diplomatic embarrassment of the 'pot calling the kettle black'.

A new year and a new government welcomed in the end of the Pacific Solution. However, a fundamental policy shift needs to be made which disposes with the notion of asylum seekers and refugees as criminals awaiting trial and returns their basic human rights with compassion. After all, asylum seekers and refugees do not risk their lives to leave their countries, their homes and their families unless they have a need to.

*Liz Nicholls is based in Brisbane, Australia.*

# Human Rights at a Crossroad?

## Towards an institutionalised regional human rights framework in the Pacific

One of the key recommendations of the *Pacific Plan* was for a regional human rights framework. **JULIA DE BLAAUW** considers the possibility that a national-based approach may be more appropriate.

The Pacific region is at a crossroad in respect of human rights promotion: on one hand is the lure of an overarching regional human rights framework, on the other is the potential for more organised grassroots progress on human rights at a national level. Low ratification rates of the core international human rights treaties, combined with civil unrest in Tonga and the Solomon Islands and military action in Fiji indicate that human rights protections are fraught, fragile and in need of strengthening. However, it is important to examine whether an overarching institutional framework is the appropriate mechanism for promoting human rights in the Pacific. The argument that follows does not discount collaboration across Pacific countries on human rights issues. Rather, it poses the question of whether an overarching institution is the right direction for the Pacific, given the practical challenges of regional policy implementation.

The *Pacific Plan*, launched in 2005 by the Pacific Islands Forum, aims to promote cooperation on human rights through the creation of a regional ombudsman and the establishment of regional judicial structures, in line with practices of institutionalisation and codification of human rights norms at a regional level such as those seen in Europe, America and Africa. This is just one facet of a wider push in the Pacific to-

wards regionalism on a range of issues. Pooling knowledge and resources does have the potential to alleviate the lack of knowledge of international human rights standards in many Pacific states as well as the impact of the geographical remoteness of islands, their small size and lack of resources available to them. Such cooperation can be achieved without the establishment of a cumbersome overarching framework. In fact, the practical challenges of implementing such an institution have the potential to cloud the original intentions that first underpinned it.

The creation of a regional institution would commit the islands to judicial forms of regional

**human rights protections  
are fraught, fragile and  
in need of strengthening**

settlement that are adversarial and litigious, increasing state obligations beyond their current political commitment to the Pacific Islands Forum. Some Pacific states have realised the potential weight of such obligations, expressing scepticism about the time and cost of reporting obligations when weighed against the benefits of binding one's state to a regional institution.

Distance also poses a problem when considering a regional human rights institution. The Pacific Islands are scattered across the world's largest ocean, encompassing one sixth of the world's surface. The difficulty for governments to come together to reach consensus on and implement a legal structure and the difficulty

for individuals to travel to any regional judicial structure in order to put their case forward, may well outweigh the common arguments in favour of regionalism such as the ability to overcome problems of remoteness, capacity, and the lack of resources of small islands.

The rigidity of an institutional model, characterised by conflict and opposition, also makes it difficult to achieve equilibrium between the concepts of universal human rights norms and island custom. For example, island states have expressed the need for recognition of the role of traditional leaders within any human rights structure, given the value placed on the community over the individual in most Pacific cultures. The cultural diversity between Pacific Islands means that any regional rules on human rights would also have to be adapted and interpreted in line with national culture. This poses a threat to gaining consensus on human rights issues at a regional level and can lead to long and drawn out processes that may increase costs and potentially detract from the original aims behind the establishment of the structure.

So what approach is best to promote human rights in the Pacific? The concept of universal individual human rights is primarily concerned with relationships between individuals and between individuals and the state. Protecting these is primarily a national obligation, which cannot be supplanted by regional strategies. Therefore, more significant than a drive to codify regional human rights is the grassroots work that must continue with Pacific states at a national level, enabling them to promote awareness of human rights and investigate human rights abuses.

One concern is that any national institution tasked with promoting human rights must be separate from the responsibilities of executive governance and judicial administration, particularly when investigating human rights abuses by the state. The success of such institutions is dependent on access to adequate resources, autonomy, and the power they are given to perform their functions. Providing such necessities at a national level is potentially more valuable than pouring money, time, and resources into regional structures. It also enables national human rights to be progressed alongside other regional and multilateral cooperation without constraining states to a cumbersome, highly structured process, such as a regional institution would do.

*Julia de Blaauw is an advisor at Ascari Partners, a public sector consulting firm based in Auckland. She has a conjoint law and arts degree with a focus on international humanitarian law, and an interest in international development issues.*

### About the Pacific Plan

The *Pacific Plan* was endorsed by the leaders of all Pacific Island Countries (PICs) in October of 2005 and has since become a key document in relation to Pacific regional development.

- The Plan sets out a framework for promoting regional cooperation and integration amongst PICs;
- Specifically, the Plan focuses on four issues critical to the Pacific region's development; economic growth; sustainable development; good governance; and security;
- While the Plan promotes cooperation between PICs, it does not prevent PICs from developing their own national goals and priorities;
- The Pacific Island Forum Secretariat maintains oversight and evaluation of the Plan's implementation and reports on this every six months.

Human rights also play an important role within the *Pacific Plan* and the Pacific Island Forum Leaders' Vision commits the Plan to the 'defence and promotion of human rights'. Explicit within the text of the plan is a commitment to:

*Where appropriate, ratification and implementation of international and regional human rights conventions, covenants and agreements and support for reporting and other requirements.*

As well as a commitment to further analysis of the:

*Establishment of a regional ombudsman and human rights mechanisms to support implementation of Forum Principles of Good Leadership and Accountability.*



# The Right to Remain:

## The politics of climate change displacement in the Pacific

**CATHERINE LOY** considers the impact of climate change and rising sea levels on the livelihoods of Pacific Islanders and their right to remain in their homes.

Relations are slowly undergoing a shift between Pacific Island nations and larger Pacific Rim countries, heralding a new era of bilateral engagement in our region. Australian Prime Minister Kevin Rudd began recently to mend his country's troubled association with a number of its Pacific neighbours by paying official visits to Papua New Guinea and the Solomon Islands. The inception of Aotearoa NZ's Pacific Islander Guest Worker scheme is another regional initiative which points to the development of greater awareness of the issues facing Pacific Island nations. Despite such positive engagement, the situation of those countries under threat from rising seas continues to be sidelined by regional leaders and the international community alike. The deep injustice which is implicit in rising sea levels and the resulting human displacement has not yet been addressed – or even fully acknowledged – by Australia and other economically developed Pacific Rim countries.

While Australia reaps the economic benefits of being the world's highest per capita polluter, the manifold adverse impacts of climate change fall disproportionately upon the most economically disadvantaged peoples of the world – Pacific Islanders among them. The right of threatened small island nations to claim compensation, assistance or even acknowledgement of this wrong has not been adequately discussed. Article 12 of the *Universal Declaration of Human Rights* enshrines the right to a home in the statement that 'no-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence... Everyone has the right to the protection of the law against such interference or attacks'. It could be argued that unrestrained greenhouse gas production by economically developed countries for their own advantage constitutes 'arbitrary interference' and, in such a case, human displacement as a result of rising sea levels would be considered a breach of human rights.

Sir Tomasi Puapuas, then Governor-General of Tuvalu, attempted to draw international attention to the right of his people to maintain their lives in their ancestral atoll homes as long ago as 2002, when he asserted that

*we want the islands of Tuvalu and our nation to remain permanently and not be submerged as a result of greed and uncontrolled consumption of industrialised countries. We want our children to grow up the way we grew up, in our own islands and in our own culture.*

As Tuvaluans are predicted to follow the Carteret Islanders in being the next peoples forced to flee rising seas, significant progress needs to be made by high-polluting countries in cutting their emissions to enable the next generation of Pacific Islanders to remain in their island homes.

Although it is not, like Tuvalu, an atoll country, climate change poses a significant threat to Tonga. Extreme weather events are threatening the Polynesian nation, with 289mm of rain in just seven hours causing flash flooding in February 2008. Due to this susceptibility to extreme weather incidents, Tonga would derive significant benefits from the implementation of climate adaptation strategies. Such strategies would ensure arable land does not succumb to encroaching salinity (a major issue in both Kiribati and Tuvalu) and fresh water sources would be secured, contributing to the maintenance of economic and social rights. As a compensatory measure for the part Australia (and, to a lesser extent,

world a means of dealing with the issue of climate displacement without taking responsibility for the climate crisis. However, suggestions that climate displaced peoples be given legal status and protection under the *UN Framework Convention on Climate Change* have not found traction either. In such a situation, Pacific Rim countries must not fail their island neighbours in the same way these nations have been failed by the international community.

*Catherine Loy is a Programmes Officer at the NSW Ecumenical Council.*

Aotearoa NZ) has played in contributing to global warming, it is the obligation of wealthy Pacific Rim nations to assist in the development of such climate adaptation strategies.

The international community has so far failed to make provision for the rights of Pacific Island peoples threatened by rising sea levels through international legal principles such as those which exist for the protection of refugees and internally displaced peoples. Although climate displacement has been prioritised by UN High Commissioner for Refugees Antonio Guterres as part of the 'new paradigm of displacement in the 21st century', calls for those displaced by climate change to be brought under UNHCR's umbrella of responsibility have not been endorsed. Many Pacific leaders are in agreement with this stance, suggesting that refugee status would not be helpful to their situation – it would simply give the developed

The island of Pangaimotu, just off the Tongatapu coast from Nu'kualofa. Photo: Catherine Loy.



A family group in Eua Island, Tonga, who have spent the evening jumping off the island's wharf into the lagoon. Photo: Catherine Loy.



# Self-determination in the Pacific:

## Reassessing the human rights recipe



Decolonisation fixed often arbitrary colonial boundaries – Bougainville became part of Papua New Guinea rather than the Solomon Islands and diverse populations were lumped together across Melanesia. Photo: CIA.

In this article, **BENJAMIN DAY** uses the example of decolonisation to argue that ensuring one set of rights does not necessarily help in the realisation of another.

The United Nations formally recognised the right to self-determination when the *Declaration on the Granting of Independence to Colonial Countries and Peoples* was adopted by the General Assembly in 1960. By doing so, the international community countenanced a scenario whereby some states would be granted the trappings of sovereignty, including territorial integrity and membership of international bodies, without demonstrating the observable characteristics traditionally necessary to acquire statehood.

Self-determination underpinned the decolonisation process – a process infused with a strong sense of the inevitable due to its sweeping and swift nature. In reality, upholding the principle of self-determination represented a revolutionary departure from the traditional process of states obtaining legitimacy. For states in post-medieval Europe, it was survival of the fittest. In the post-self-determination world, it is survival of the *permitted*.

Decolonisation fixed often arbitrary colonial boundaries and prevented any rearrangement of them. Bougainville became part of Papua New Guinea, not the Solomon Islands, and Pacific microstates were destined to remain alone. In Melanesia in particular, populations of profound diversity were lumped together as independent nations. The strongly centralised new national bureaucracies inherited from colonial administrations were often subjected to political pressure

from the periphery to decentralise. This often haphazard process helped jeopardise what limited service delivery was effective.

Political representatives, faced with diverse constituencies, were often consumed with securing their own political base and appealed to their most natural supporters, usually those in the same population groupings, to ensure political survival. Such behaviour further exacerbated the divisions in society and contributed to the creation of an unstable political environment – one characterised by shifting alliances and decisions based on political gain rather than the necessary space for discussing and implementing solutions to social problems. For the microstates, establishing the machinery of government needed to function in the international system was prohibitive to the extent where efforts to govern locally were often compromised.

Achieving self-determination therefore contributed to inhibiting the evolution of effective governance in the Pacific, which in turn impacted upon service delivery. Realisation of human rights upheld in the *Universal Declaration of Human Rights*, such as ‘everyone has the right of equal access to public service in his country’ (article 21.2) and ‘everyone has the right to education’ (article 26.1) were compromised.

There is some evidence to suggest that this reality is being felt by Pacific Peoples. An example is the recent decision by the people of Tokelau to remain a territory of Aotearoa New Zealand. This can be interpreted as a demonstration of their collective view that the upholding and advancement of their rights and well-being will be more effectively

achieved under existing governance arrangements than by exercising their right to self-government.

The irony is that current initiatives to secure region-wide economic growth, reduce poverty and improve service delivery deal mostly with interconnectivity. Barriers created by self-determination need breaking. Opening up national communications and airline monopolies to competition, for example, has greatly contributed to recent regional economic growth. Meanwhile, numerous issues central to Pacific development, such as improving airports and shipping ports, reducing the cost of postal services, and seeking to broker agreements to allow beneficial regional movement of workers all exhibit multinational dimensions.

The Australian Strategic Policy Institute’s recent special report *Engaging our Neighbours* considers that ‘the best way forward in Australia’s engagement with its Pacific neighbours lies in a regional integration of Australia and the Forum Islands states conceived in the widest sense’. Tokelau’s interconnectivity, as its population understood, depends on its strong relationship with Aotearoa New Zealand. Moreover, solutions to the preeminent challenges facing the region, combating climate change and trans-border threats such as bird-flu, demand a coordinated regional response.

The unique geography and demography of the Pacific would have presented challenges to modern government structures and service delivery regardless of the effects of self-determination and decolonisation. Nevertheless, exercising the right to self-determination impacted upon the ability of Pacific Peoples to effectively realise additional individually-focused human rights.

There exists a misconception that likens the process of realising human rights to the step-by-step preparation of a multi-layered cake. With each human right realised or layer added, the cake attains a closer resemblance to conceptions of what, in theory, will be the desired final product. Current development efforts in the Pacific suggest that promoting and achieving human rights is actually much more complex. And, like it or not, opportunity cost – weighing up what is forgone when deciding to exercise a policy choice – is an unavoidable ingredient when it comes to realising human rights.

*Benjamin Day is an International Relations postgraduate from the University of Queensland and currently works as a researcher in Papua New Guinea.*



# Converging Currents:

## Custom and human rights in the Pacific

In September 2006, the New Zealand Law Commission released a study paper looking at the relationship between custom and human rights in the Pacific.

**EWAN MORRIS**, from the Commission, highlights the key findings.

Custom and human rights are often seen as conflicting in the Pacific region, yet both are embedded in Pacific legal systems. Custom is recognised as a source of law in most Pacific countries, and human rights are also protected in most Pacific constitutions as well as through ratification of international treaties by Pacific states.

This raises the question of whether custom and human rights can live comfortably together. Some see human rights, with their perceived individualist bias, as a threat to custom. Others see custom as undermining individual rights, particularly those of disadvantaged or vulnerable groups such as women and young people.

Despite apparent areas of tension and conflict, the New Zealand Law Commission believes that custom and human rights can be harmonised in many cases by looking at the underlying values of each.

The Pacific region is an area of tremendous cultural diversity, but certain values are common in Pacific cultures, and it is these values that form the basis of custom. Respect for the dignity of all persons is perhaps the primary value underlying Pacific custom. From this flow other values such as the demonstration of love and care for others, consensus-based decision making, and the maintenance of balance in relationships.

Such values are generally consistent with the values underlying human rights, which are also based on respect for human dignity. However, customary practices – what people actually *do* – may not always reflect customary values, or underlying beliefs about what is right. Much of the apparent conflict between custom and human rights is due not to the underlying values but to how custom is practised.

Conflicts between customary practices and human rights are particularly apparent in re-

lation to issues such as the rights of women, children and minorities, and freedom of religion, speech and movement.

For example, custom plays a part in restricting women from taking on leadership roles, perpetuating violence and sexual offences against women, and denying women equality in marriage and other family law

spirits are also part of Pacific custom, and such traditions provide a strong basis for recognising children's rights. Traditional stories and passages from the Bible can be used to illustrate the importance of respecting children and treating them with kindness.

Although some customary practices will need to change to accommodate human rights and to bring practice more into line with underlying customary values, it does not require the wholesale repudiation of custom. Indeed, by looking for common ground be-

tween custom and human rights, both may be enhanced. Human rights will be strengthened in the Pacific if they can be expressed in terms of local culture and customary values.

**Achieving greater harmonisation of custom and human rights can be approached as a three-step process:**

1. Identify the key values of the particular communities concerned.
2. Relate those values to the values underlying human rights, looking for areas of commonality.
3. Review customary practices in light of both customary values and of human rights norms, to see whether the practices are compatible with those values and norms.

In a legal context, this process would allow courts to develop an 'indigenous jurisprudence' or system of laws which would try to express human rights principles in terms of customary values.

An approach that looks for common ground between custom and human rights seems preferable to one in which either human rights or custom 'trumps' the other. There is no one-size-fits-all solution: it is for people in each Pacific country and community to work out how custom and human rights can best co-exist in the local context.

*The paper, **Converging Currents: Custom and Human Rights in the Pacific**, is available on the Commission's website [www.lawcom.govt.nz](http://www.lawcom.govt.nz).*

*Ewan Morris is a Senior Legal and Policy Adviser at the Law Commission.*



matters. However, there are also traditions of respect for women in Pacific custom, and these traditions can be drawn on to promote women's rights. Women have their own perspectives on what custom is, and giving equal weight to women's understandings of custom can help to ensure that custom evolves in ways that recognise women's rights.

Similarly, it may be considered that customs relating to disciplining of children and the authority of elders are at odds with children's rights. But traditions of valuing children and honouring the sacredness of their bodies and

Some see human rights, with their perceived individualist bias, as a threat to custom. Others see custom as undermining individual rights.

Giving equal weight to women's understandings of custom can help to ensure that custom evolves in ways that recognise women's rights.

# Disability, human rights and development in the Pacific



**After attending recent meetings on disability rights in Samoa, **ROBYN HUNT** reflects on the process and the issues raised by disabled people's organisations in the Pacific.**

**S**tories of disability discrimination are the same the world over. Despite local and cultural differences, and differences in degree, disabled people can relate to them wherever they are.

Human rights abuses have been documented widely, and disabled people around the world worked hard during the development of the *UN Convention on the Rights of Disabled People* (CRDP) to make sure their voices were heard and their rights respected in the outcome.

Disabled people are not usually included in mainstream development programmes. There is no mention of disabled people in the Millennium Development Goals (MDGs), yet they are among the poorest and most disadvantaged and marginalised in the world. The need for the Disability Rights Convention is very clear.

The Pacific is no exception to this international picture. The Pacific Disability Forum (PDF) is made up of around 20 mostly small disabled people's organisations from the region, and several international organisations. It is beginning to build capacity and work on disability issues, despite the scattered membership and difficulties of distance and isolation.

The forum's recent meeting in Apia, Samoa was preceded by a forum to establish a women's committee for Nuanua O Le Alofa (NOLA), the Samoan disabled people's organisation.

Samoan disabled women identified issues for attention. They included freedom from violence, abuse and neglect, support for families, early intervention services, access to quality health services and education. Transport, physical accessibility in and around their communities, access to work, training for work and negative and even cruel community attitudes towards them also loomed large.

The women, mostly young, had the dreams and aspirations of most young women worldwide. They wanted to learn, to work, to go out, to have fun, to party and to have boyfriends and ultimately families of their own.

**ONE EXPRESSED HER HAPPINESS AT BEING ABLE TO TRAVEL AWAY FROM HOME BY HERSELF FOR THE FIRST TIME IN HER LIFE, DESCRIBING IT AS HER 'RIGHT TO FREEDOM'.**

One expressed her happiness at being able to travel away from home by herself for the first time in her life, describing it as her 'right to freedom'. Another shared her longing to go to school, while another young woman was distressed as she talked about the way her community behaved towards her. We also heard about one small girl tethered by her ankle and left outside among the pigs. I have heard and seen evidence of the same

An estimated 98% of disabled children in developing countries receive no education. In this picture, Sila, a young man who is blind, helps Tongan school student Meleane learn how to use a Braille machine that helps her to read and write. Sila began working with the school three months ago to plan future classes and provide these opportunities for more children. *Photo: Tonga, photographer unknown, Ofa Tui Amanaki Centre.*

kind of treatment in different cultural and national contexts.

There are huge barriers for disabled people to overcome in the Pacific relating to resources, capacity, and infrastructure along with community attitudes and isolation. NZAID provides core-funding to the Pacific Disability Forum to strengthen disabled peoples organisations in Pacific countries and supports some other regional and national initiatives focusing on improving the welfare of disabled people. SPARC will soon be assisting with developing a sports policy similar to the Aotearoa New Zealand *No Exceptions* policy for inclusion of disabled people in sport and recreational activities.

The second meeting, the Council Meeting of the PDF, was focused on capacity development and included sessions on advocating to governments the signing and ratification of the UN Convention. Attention was also paid to using the *Biwako Millennium Framework* (BMF), the *Pacific Plan* and where applicable, national constitutions to advocate for disability rights.

The PDF says, 'Pacific People and their organisations have continuously been trying to tell the world that their situation demands a different development model and strategy and that the best people to design, implement and voice them are the Pacific People themselves. The Disabled People of the Pacific and their organisations are saying the same thing by establishing the Pacific Disabled Forum.'

Delegates from both conferences were left with the catchcry heard often during the development of the Disability Rights Convention: 'Nothing about us, without us!'

Convention on the Rights of Persons with Disabilities web site

<http://www.un.org/disabilities/>

Pacific Disability Forum web site

<http://www.pacificdisability.org/default.aspx>

Biwako Millennium Framework web site

<http://www.unescap.org/esid/psis/disability/bmf/bmf.html>

*Robyn Hunt is a Human Rights Commissioner and has 20 years experience in the fields of human rights and equity issues.*



# Missing persons to media training: The role of the New Zealand Human Rights Commission in the Pacific

**JOY LIDDICOAT** from the New Zealand Human Rights Commission discusses the Commission's work in the Pacific.

**A**s a national human rights institution, the New Zealand Human Rights Commission has practical experience with human rights issues. The Commission deals with complaints of discrimination, dispute resolution, human rights education, community programmes promoting harmonious race relations and work with indigenous people.

The Commission is involved in projects across the Pacific region and has developed partnerships with governments and civil society organisations. For example, the Commission is helping the Cook Islands Coroner to resolve missing persons' cases, raising awareness of human rights in Niue, promoting dialogue and research on human rights institutions in Samoa and Tuvalu with the Pacific Islands Forum Secretariat and build-

ing human rights expertise among Pacific news media organisations and journalists.

In 2007, the Commission prepared a report in partnership with the Pacific Islands Forum Secretariat entitled *National Human Rights Institutions: Pathways for Pacific States*, based on research and consultations in Samoa, Tuvalu, and Niue. The report found that human rights mechanisms in the Pacific vary widely and that a broad infrastructure for human rights exists. However, the region faces significant human rights issues and three concerns echo consistently in dialogue about human rights in the Pacific:

- The existing high levels of competing demands on limited resources.
- The obligations imposed by ratification of international human rights instruments.
- The relationship between custom and human rights.

Yet the research found there is a desire for progress, provided this takes account of the context of small island states.

Various follow up initiatives have taken place from this research and surrounding dialogue, including a regional meeting in April 2008 which reinforced the need for Forum Members to consider the development of national and regional human rights mechanisms. The Forum Secretariat is considering how to offer human rights assistance in line with the *Pacific Plan* and to follow up in-country consultations with distribution of information about human rights.

While many challenges remain, experience has shown that taking a positive approach and working alongside partners on issues that are relevant to them can ensure constructive engagement. The result is that the Commission has been able to find unique ways to assist the promotion and protection of human rights in the Pacific.

*Joy Liddicoat is a Commissioner at the New Zealand Human Rights Commission, [www.hrc.co.nz](http://www.hrc.co.nz).*

## Putting the human rights approach into practice: NZAID's experience

**H**uman rights are at the core of Aotearoa NZ's development assistance policy. NZAID is mainstreaming human rights into the full range of our development assistance programmes and policies. Mainstreaming guidance to staff identifies the following questions for consideration in all aspects of our work:

- What are the key human rights issues in this situation and who is the most affected?
- Who is responsible for protecting or fulfilling these?
- Are they taking responsible measures or steps to meet their obligations?
- What human rights issues are being addressed by this programme or activity?
- Which group of people will benefit from this? Who won't? Why?

In the Pacific we fund the work of the Pacific Regional Rights Resource Team (RRRT) to deliver human rights education, provide technical advice to government agencies

and build the capacities and skills of human rights advocates.

We support the New Zealand Human Rights Commission which works closely with Pacific governments and provides support to the Pacific Island Forum Secretariat and the Office of the High Commissioner for Human Rights (OHCHR).

NZAID works at the national level in several guises; for example, by providing core funding for a Cook Islands' women's counselling centre and supporting the Save the Children 'Children and Youth in Conflict with the Law' project in the Solomon Islands. We assisted in the drafting of the Vanuatu *National Disability Policy and Plan of Action 2007-2015*.

Across the Asia Pacific region, NZAID provides funding to the Asia Pacific Forum of National Human Rights Institutions which supports the development of national and NGO human rights institutions. We support



Pacific women's conference in the Cook Islands. Photo: NZAID.

the Diplomacy Training Programme, affiliated with University of New South Wales, which provides human rights advocacy training to approximately 100 civil society advocates and human rights defenders from developing countries in the Asia Pacific region each year.

This list is not complete and illustrates that NZAID is committed to a rights-based approach to development. This approach is in accord with the *Pacific Plan* which identifies human rights as a key issue that requires further regional action.

To find out more, go to [www.nzaid.govt.nz](http://www.nzaid.govt.nz).

# Empowering Papua New Guinea's urban youth: Reflecting on the barriers to youth rights in Port Moresby

STEWART SERAWÉ and MICHAEL KAWAK

reflect on the findings of a study into the situation of youths in Port Moresby and what this means for the realisation of their social and economic rights and their participation in society.

The rights of citizens are given foremost substance in the National Goals and Directive Principles of Papua New Guinea's National Constitution, which states that every citizen must be given an equal opportunity to partake in the political, economic, social, religious, and cultural life of the country. However, in reality there is a lot to be desired. Youths get little opportunity in nation building.

For youths to participate fully in development there must be mechanisms to sustain their livelihoods because the need to survive is the fundamental basic human right. In Papua New Guinea (PNG) there are high numbers of school drop-outs and high youth unemployment rates.

Additionally, in the face of rapid modernisation youths find it difficult to adjust and to manage life stressors and can respond negatively by developing maladaptive lifestyle patterns to meet basic economic needs; for example, resorting to drugs, alcohol, armed robbery, prostitution, and street vending. Unfortunately, many become victims of police brutality, tribal violence, and harassment by employees from the National Capital District Commission (NCDC), the city authority.

A NZAID-sponsored Situation Analysis completed recently on young men in Port Moresby identified the following three key issues:

1. Youth unemployment is high in Port Moresby. Youths are unable to obtain formal employment because they lack experience and qualifications or are casualties of nepotism. Youths are unable to fully participate in the informal sector as they lack start-up capital and are suppressed by NCDC agents.
2. Substance abuse of alcohol and drugs is the second key issue. Many youths become involved to blot out stigmatisation associated with unemployment.
3. Gambling is the third key issue, and leads to prostitution, drugs and economic crimes. These findings show that many youths in PNG do not have their economic or social rights met, preventing them from fully participating in society and realising other social and political rights.



Youths from Arere Street within Port Moresby's suburb of June Valley, FPCD's target group, started a poultry project as an income-generation initiative with funding support from NZAID. Around 20% of start-up funds were internally raised by the Youth Group.

The study also looked at organisations involved in youth development and identified the following concerns that were impeding any improvement in the situation:

1. The Department of Education lacks qualified psychologists in government-run schools. Teachers who have been trained as volunteer counsellors juggle between teaching and effective counselling.
2. The Correctional Services (CS) revealed that well over two-thirds of inmates currently serving terms at Bomana Prison outside Port Moresby are youths. The prison has an effective rehabilitation programme, yet lacks qualified psychologists to provide counselling to youth inmates. After release into communities, CS lacks resources to monitor how former youth inmates are doing.
3. The Department of Health's Psycho-Social Rehabilitation Centre serves as a secondary referral centre from Laloki Psychiatric Hospital and Port Moresby General Hospital's Psychiatric Ward. This Centre has contributed significantly to the reduction of readmissions to the two hospitals. Yet, it lacks manpower and resources to continue its work. Few new psychiatrists are trained annually in PNG.
4. Around 60% of male patients admitted to the Laloki Psychiatric Hospital in 2003 were youths. There are no fulltime counsellors but trained nurses provide counselling to psychiatric patients. After rehabilitation, there is no follow-up due to logistical and financial constraints.
5. The NCDC's Youth Services assisted youth groups with cleaning and beautification contracts in Port Moresby. Currently this is shelved due to supposed nepotism within NCDC. NCDC-sponsored technical trainings are conducted at the Limana Vocation-

al Centre for girls and the Badili Vocational Centre for young men.

Mental, physical and social well-being are vital strands of life, deeply interwoven and interdependent. In PNG, a developing nation with rapid urbanisation, disorders are common. Port Moresby youths are caught in the mental distress caused by the new system, contributing to high violence, unemployment and social and economic anarchy. Many youths of this generation and the previous one have been educated for something that is extremely hard to find – a job.

Youths need to be given more opportunities to participate directly in nation building and improving their living standards, including supporting them to go into informal income generation. When young men and women are mentally unhealthy, productivity declines and overall socio-economic development stagnates.

Additional government support and funding needs to be provided to agencies working directly with youths to effectively deliver services to them. By fully empowering youths, they will be given equal opportunity to take part in the political, economic, social, religious, and cultural development of PNG.

*Stewart Serawé is the Special Projects Manager at Foundation for People and Community Development Incorporated and produced the NZAID-sponsored report 'Situation Analysis on young men in Port Moresby' on which this article is based. Michael Kawak is the Youth and Mental Health Project Coordinator at Foundation for People and Community Development Incorporated.*



Silas Thomas, a youth leader from the crime-infested settlement of Morata in Port Moresby presenting one of his youth group member's creations to Ms Renate Wilke-Launer, a journalist from Germany. Mr Thomas has organised his youths to be self-reliant through capacity building support from FPCD.



# Protecting communities by protecting forests: Forest Stewardship Council Certification in Papua New Guinea

Commercial logging has for a long time ridden over the rights of local people and those traditionally using forests.

**CAROLINE IMUN**, discusses the ways Forest Stewardship Standards can be used to protect the rights of the resource owners.

In the Madang Province of Papua New Guinea (PNG), indigenous forest resource owners are managing their forest resources according to Forest Stewardship Council (FSC) standards for sustainable forest management and are benefiting from it. The members of the Madang Forest Resource Owners Association (MFROA) have committed themselves to managing their forests under the auspices of the FSC National Standards with technical assistance from the Foundation for People and Community Development Inc (FPCD). This partnership started in 1997 when they approached FPCD to assist them in managing their own forests and has since grown. These indigenous resource owners are now able to make decisions concerning the development of their forest and benefit holistically from it.

The MFROA is an association made up of indigenous resource owners who have seen the destructive practices of foreign logging companies and the unequal distribution of benefits and have decided to develop and manage their own forest under sustainable forest management practices. These people rely heavily on their forests, which range in size from 1 – 1000ha, and they see the need to protect their forest from destructive logging practices. Most of them receive an income of NZ\$390 – 650 a year.

Most of the forests on or around the land of the members of MFROA have been logged by foreign logging companies. These developers



Indigenous forest resource owners of Madang Province in front of timber harvested from their forest and graded and stacked for export.  
Photo: Foundation for People and Community Development Inc.

‘cream’ the forests, leaving the resource owners with a forest that is completely destroyed with little to no lasting benefits. The forest that was destroyed will take a very long time to recover. Although 97 % of the land in PNG is customarily owned, most forest development occurs without the informed consent of the owner and they receive only a tenth of the total log export, which is approximately NZ\$3.9 per cubic meter. The general mindset is that the indigenous owners are not able to manage and develop their forests commercially.

In 2005, the PNG Government passed a forestry bill that enabled the government to take the users’ rights of the forests from these indigenous forest owners. This move granted the Government the power to give the use of the forest to foreign logging companies without the informed participation and consent of the forest resource owner.

To give the resource owners an alternative, FPCD developed the Indigenous Community Forestry certification scheme (ICF) based on FSC certification. It demonstrated sustainable forest management and made certification accessible to forest resource owners in PNG.

Under the ICF group certification scheme, these resource owners are able to receive an income of approximately NZ\$13,000 a year per group, which is more than what they would normally get from large scale logging. Through community forestry certification, they are able to decide how they want to use

their forests. They decide the number of trees to be felled and the harvest time. They are empowered to make decisions concerning their forests instead of allowing the government or any middle man to decide for themselves. Their forest is developed with the use of portable sawmills and the timber milled is exported to buyers in Aotearoa New Zealand and Australia as certified timber.

FPCD has also empowered people to develop their forests through the transferral of skills (forest inventory, sawmilling and marketing, business management, good governance, first aid and gender sensitisation) and technology. These forest resource owners are now able to manage and harvest their forests without destroying them.

Since forest resource owners have begun managing and developing their forests with assistance from FPCD, their lives and living standards have improved and they are empowered to make decisions on developing their forests instead of relinquishing their rights to foreign logging companies and the government, who gives a deaf ear to the cry of these people. Community forestry certification has empowered them to be recognised as the rightful resource owners and beneficiaries of the forest.

To find out more, go to [www.fpcd.org.pg](http://www.fpcd.org.pg).

**Caroline Imun** is a Forest Certification Officer at the Foundation for People and Community Development Incorporated.



Aerial view of mountain river in PNG. Photo: Michael Johnson.

# A right to life and security: Translating human security research into action in Papua New Guinea

Human rights abuses, underpinned by a culture of impunity, deteriorating law and order and weapons use, represent a serious threat to human security and development in the Highlands of Papua New Guinea (PNG). Staff from the **OXFAM NEW ZEALAND (NZ) PNG HIGHLANDS PROGRAMME** explain here how their work identifies and protects against these threats to human security.

**W**hen violence and gun violence are a daily reality, policy makers fail to recognise how people are affected by insecurity and its effect upon their rights. Oxfam NZ is attempting to fill this gap through its Peacebuilding and Conflict Reduction Programme in the Highlands of PNG.

## PEACEBUILDING IN PAPUA NEW GUINEA

Oxfam NZ has been working in PNG since 1992 and has strong expertise in conflict prevention and peacebuilding, focusing on building the capacity of partner organisations, enhancing the participation of women, small arms control, and improving livelihoods and access to services. An integrated research component provides a strong evidence base for partner support, programme and policy development, advocacy and accountability. Underlying the research is a human-centred approach to security, which looks at freedom from pervasive threats to people's safety, rights and lives. Local solutions developed in response to conflict have rarely been explored and there has been little formal recognition of the impacts of insecurity and conflict on people's lives. These are vital issues that cut to the core of insecurity

and form the basis of the Security and Community Initiative Research (SACIR) project.

## INSECURITY IN THE SOUTHERN HIGHLANDS

SACIR is being carried out in the Hela Region, an area at the western end of the Southern Highlands Province supporting a population of 300,000 people. Despite significant natural and mineral resource development, there has been a downward spiral in economic and social order in Hela and across the Southern Highlands over the last two decades. Most government services are unreliable or have been withdrawn, contributing to a greater demand for guns, for economic necessity and security, and creating a cycle of violence and social disruption.

SACIR commenced in October 2007 with the aim of exploring the gendered nature of violence, and the impacts of violence and insecurity on people's lives. It enables people to develop their own criteria of risks and their own ideas about what appropriate interventions may look like. The research uses quantitative and qualitative methodologies, which allow violence and insecurity to be expressed by participants. Qualitative methods include mapping the impact of insecurity on mobility, drawing venn diagrams to show the types, frequency and gendered impact of violence and problem analyses of the main triggers and corresponding impacts of violence. Focus group discussions and in-depth interviews are utilised for deeper analysis of the aspects of violence and security that emerge through diagramming techniques. A Violence-Related Trauma Survey is also being conducted at Tari Hospital, the main referral hospital for the Hela Region.

Preliminary findings show that insecurity is broadly understood and encompasses social, economic, political and psychosocial factors. Security concerns commonly mentioned include the ineffective law and justice sector, frustration associated with poor service provision and inequitable distribution of resources, polygamy and male control over women, the lack of social and economic opportunities and instability associated with internal displacement due to tribal fighting and support (payback) for violence. The triggers and effects of violence are multiple, as are the forms of violence participants experienced. The findings also indicate a disturbing trend toward high levels of gender-based violence and abuses against women. For example, women made up 66% of all violence-related



An example of the advocacy of the PNG Coalition Against Gun Violence during the recent PNG national election. Why do you need a gun to win votes? An honest leader doesn't need to use a gun to influence voting. Image: Oxfam International PNG and PNG Coalition against Gun Violence.

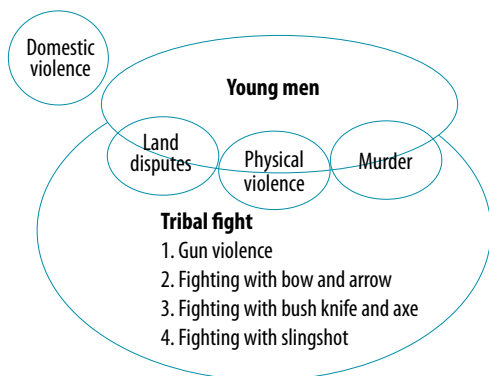
trauma cases presenting to Tari Hospital and in 50% of these cases a married woman's perpetrator was her husband.

## RESEARCHING INSECURITY FOR ACTION

The study findings are being translated into interventions and used in the development of key programme strategies. A solid evidence base gives strength to Oxfam NZ's advocacy for increased rights to life and security through greater government accountability and for greater recognition of the security links to gender, essential services, health and livelihoods. The value of evidenced-based advocacy can be seen specifically in the work of the PNG Coalition Against Gun Violence, an organisation established as a vehicle to support the implementation of Oxfam's learning. This approach can offer alternative options and fresh perspectives to addressing the security needs of women, marginalised groups and local populations.

By providing a voice to groups vulnerable to violence, the research draws attention to a broadened notion of security, to locally appropriate intervention strategies and alternative peacebuilding models, and gives strength and validity to Oxfam NZ's rights-based advocacy. This approach may have wider applicability for the design of incentives to reduce violence in other parts of the Highlands and in its contribution to contemporary thinking and policy development on human rights and security in PNG.

*This article was written by Rachael Hinton, Michelle Kopi, Noreen Tom, Betty Angai, Jenita Tumbiako, Yanny Guma and Daniell Cowley from Oxfam International's PNG Highlands Programme.*



Venn diagram of frequency and impact of types of violence in the community drawn by young men. The closeness of the circle indicates frequency and the size of the circle indicates impact on their lives. The large tribal fighting circle encompasses the majority of violence affecting young men.



# Take Action

## IF YOU WANT TO TAKE ACTION IN AOTEAROA NEW ZEALAND:

- **Watch out for events and campaigns on the Human Rights Network** [www.humanrights.net.nz](http://www.humanrights.net.nz)
- **Amnesty International NZ** [www.amnesty.org.nz](http://www.amnesty.org.nz)
- **Write to your representatives in Parliament** [www.parliament.nz](http://www.parliament.nz)
- **Get in contact with the NZ Human Rights Commission** [www.hrc.co.nz](http://www.hrc.co.nz)
- **If you are a school teacher, check out Building Human Rights Communities in Education** [www.rightsined.org.nz](http://www.rightsined.org.nz)

## IF YOU WANT TO TAKE ACTION OVERSEAS:

- **Check out Human Rights Watch** [www.hrw.org](http://www.hrw.org)
- **Amnesty International** [www.amnesty.org](http://www.amnesty.org)

## OTHER USEFUL RESOURCES:

- **Assisting Communities Together (ACT)** [www2.ohchr.org/english/issues/education/training/act.htm](http://www2.ohchr.org/english/issues/education/training/act.htm)
- **The OHCHR's Database on Human Rights Education and Training** <http://hrc.ohchr.org/hret/Intro.aspx?Lng=en>

- **The UN Manual on Human Rights Reporting** [www.ohchr.org/Documents/Publications/manualhrren.pdf](http://www.ohchr.org/Documents/Publications/manualhrren.pdf)
- **Working with OHCHR: A handbook for NGOs** [www.ohchr.org/Documents/Publications/NGOHandbooken.pdf](http://www.ohchr.org/Documents/Publications/NGOHandbooken.pdf)

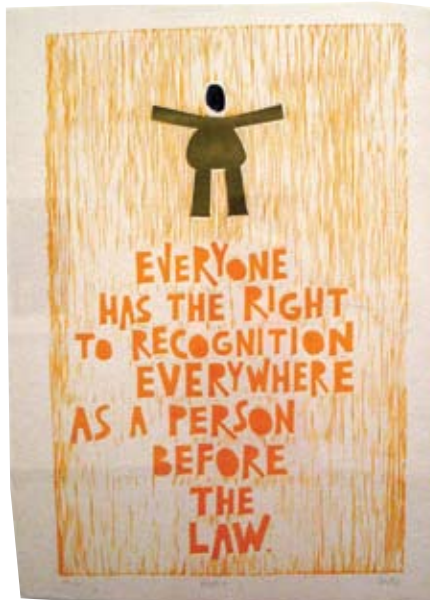


Photo: Silva Serghian.

## BOOKS FROM THE DEV-ZONE LIBRARY

HE PUKAPUKA MAI I TE KOHINGA A DEV-ZONE

**The evolution of international human rights.** *Paul Gordon Lauren. Pennsylvania: University of Pennsylvania Press, 2003.*

Starting with their earliest beginnings and tracing their emergence into a powerful framework for social justice, this book follows the global evolution of human rights.

**Human rights: a very short introduction.** *Andrew Clapham. NC: Oxford University Press, 2007.*

Taking an international perspective, and focusing on highly topical issues such as torture, arbitrary detention, privacy, health, and discrimination, this book will help readers to understand for themselves the controversies and complexities behind this vitally relevant issue.

**Human rights in the South Pacific: challenges and changes.** *Sue Farran. London: UCL. Press, 2007.*

This book looks at the challenges and contemporary issues raised by human rights in the island countries of the South West Pacific which have come under the influence of the common law.

**Health, trade and human rights.** *Theodore H MacDonald. Oxon, UK: Radcliffe Publishing, 2006.*

This book shows how the WTO-supported policy of 'free' rather than 'fair' trade increasingly undermines health in developing countries and breaches 'basic human rights' provisions.

**The future of women's rights: global visions and strategies.** *Joanna Kerr, Alison Symington and Ellen Sprenger (eds.). London: Zed Books, 2005.*

This book explores the recent emergence of various trends

that may threaten the ongoing work of women's movements in advancing gender equality, women's human rights and sustainable human development.

**Human rights and development.** *Peter Uvin. Bloomfield, CT: Kumarian Press, 2004.*

This book advocates a rights-based approach to development and shows how practitioners can surmount the tough ethical and human rights obstacles encountered in their endeavours.

**The no-nonsense guide to human rights.** *Olivia Ball and Paul Greedy. London: New Internationalist, 2006.*

How do we define human rights, and how do we protect them? Using vivid case studies from around the world, the authors illustrate how the concept of rights changes according to geography and culture.

## LINKS FROM THE KNOWLEDGE CENTRE

HE HONONGA MAI I TE PŪTAHI MĀTAURANGA  
[www.dev-zone.org/knowledge](http://www.dev-zone.org/knowledge)

**Documenting the treatment of detainees and prisoners by security forces in the kingdom of tonga.** *Community Para-Legal Taskforce on Human Rights, May 2007.*

The Tongan Community Para-legal Taskforce is currently preparing a number of reports on human rights issues emerging from the civil unrest in Nuku'alofa on Thursday 16th November 2006. This report is the first in this series.

**Tortured beginnings: police violence and the beginnings of impunity in East Timor.** *Human Rights Watch, April 2006.*

This 60-page report is based on dozens of interviews with witnesses and victims of police abuse in East Timor.

## News from the DRC

The *Guide to International Development Terms and Acronyms – Pacific Focus* has now been published. The *Guide* gives concise, accessible definitions and critical summaries for more than 1,200 terms used in current development debate, and 'should be an essential addition to the backpack or briefcase of development practitioners, academics and students' (Dr. Regina Scheyvens, Head of Development Studies Massey University). Available to purchase direct from Dev-Zone. Dev-Zone has a new addition to the team. Sean Buckley has been working on a number of new resources including a one-pager fact sheet on *Human Rights in the Pacific*. To get the low-down on current development issues, check out this and other one-pagers on our website. Dev-Zone's *Responsible Tourism Code for the Pacific* has been revised and updated. The new code and website provides a wealth of information on how you can make your holidays to the Pacific more responsible.

The Global Education Centre would like to welcome Jo-Lynne Jack and Maureen Gillies to the team. The GEC school's programme has produced a 4 poster and booklet resource on indigenous perspectives. These are a colourful addition to the classroom wall. We also have a new resource called *Refugee Voices*, a CD of stories and interviews and a booklet of information. We will be launching this on the 1st August at the Centre for Global Action.

Out in the community the GEC continues to engage young people through its unique Just Focus Youth Network. Work is underway training budding young journalists on an exciting new programme called Just Write. Just Write has gained a great reputation already, boasting a team of mentors who support the young writers, consisting of journalists from TV3, The Christchurch Press, Ministry of Education, senior lecturers at Massey and Canterbury University schools of journalism to name a few. Adding to the successes is Media that Matters Aotearoa, a youth-driven film festival, which continues to establish itself as the must-have youth film event with a focus on global issues. To find out more visit [www.justfocus.org.nz](http://www.justfocus.org.nz)

**Indonesia: impunity and human rights violations in Papua.** *Amnesty International, April 2002.*

This report provides information on the human rights situation in Papua, following an Amnesty International mission to Papua in January 2002.

**The United Nations human rights treaty system: an introduction to the core human rights treaties and the treaty bodies.** *Office of the United Nations High Commissioner for Human Rights.*

This fact sheet provides a concise introduction to the core UN human rights treaties and the bodies or committees which monitor their implementation in state parties.

**Fiji human rights report on Bainimarama assumption of power in Fiji.** *Fiji Human Rights Commission, January 2007.*

This highly controversial report finds that the overthrow of Qarase government in 2006 by the Fiji military removed an unconstitutionally elected government which put in place unconstitutional policies and legislation that also violated international human rights law.

**Reclaiming voices: a study on participatory human rights education methodologies in the Asia-Pacific.** *Asia-Pacific Regional Resource Centre for Human Rights Education, December 2004.*

This study is aimed at documenting the different methodologies employed in non-formal human rights education programs and recommends how they can be more effectively used for vulnerable, disadvantaged and marginalised groups in the Asia Pacific Region.

# 'We cannot move' – Mama Mamas face eviction



Future uncertain... the Mama Mamas evening market in central Jayapura. Photo: Judith Crimmins.

**Forced evictions are recognised by the UN as a gross violation of human rights. In this article, [CAROLYN THOMAS](#) talks to Judith Crimmins about a group of women traders in West Papua who face eviction from their market place and an uncertain future for their families.**

**T**he Mama Mamas, women market traders from Jayapura, West Papua are in danger of losing their livelihood if they are removed from the city centre in the heart of the West Papuan capital. The mayor of Jayapura wants the markets, where the Mama Mamas sell their fresh produce, moved 30 minutes out of the city.

Peace and social justice worker Judith Crimmins says the mayor wants Jayapura to look 'more like an international city – more like New York'. 'Taking the markets away from the city and away from people is taking business away from the Mama Mamas', she says. 'They earn their family's living here.'

The proposed new market site presents a number of problems. The stalls are already occupied by non-West Papuan people, making it difficult for the Mama Mamas to find a good place to sell their goods. The Mama Mamas do not have cars and would have to commute to the proposed site by bus. The proposed site also does not provide shelter, and without this the fresh fruit, vegetables, fish and spices they hope to sell each day

would deteriorate quickly.

It's not the first time the Mama Mamas have been evicted since they started trading in central Jayapura in 1971. Removed from a riverside spot when a hotel was built a couple of years ago, they eventually made their way back to the city centre.

Judith Crimmins, whose background is in teaching and social work, has been involved with overseas aid since the 1970s. She first came across West Papua's self determination issues in 1972 when she lived in Papua New Guinea. She became friends with political refugees from West Papua who were 'the main inspiration for her work there'. 'I saw the hard times they had in the 70s,' she says. 'When you know people personally it makes a difference.'

More recently, Crimmins has travelled to West Papua as a representative of Pax Christi Aotearoa New Zealand, an organisation that is part of an international peace movement.

She found that keeping their market place was a daily struggle for these 'amazing women', the Mama Mamas. She was constantly hearing the Mama Mamas saying the reason

they need to earn money is to 'educate their children better'. 'They do it to find money to send their children to school – they want to improve their children's education.'

Pax Christi is working with non-governmental organisations and West Papuan people directly to help development relationships with local government. Kevin McBride, a member of Pax Christi's executive committee in Aotearoa NZ, says the organisation hopes to help the Mama Mamas through education and community training using video and DVD tool kits and is working with the Office of Justice and Peace in Jayapura (SKP) on this project.

*We aim to teach them market sense and how to deal with local body leaders. The situation is very different from tribal relationships the women are used to. [Pax Christi is] negotiating in peaceful ways [on conflict resolution and violence against women and children in West Papua. A main focus is] lifting pressure off women in the market place.*

In 2001, the Indonesian government granted special autonomy to the province of Papua, an initiative that is hoped to eventually bring about real rights and welfare to the West Papuan people. However, migrants to West Papua have access to better education in Indonesia giving them an advantage.

McBride says there is a place for women's leadership under the rules of the special autonomy and Pax Christi is working to develop this. 'The laws are there', McBride says, and he looks forward to when they are implemented. He says the local people are calling for a review of special autonomy.

**the mayor wants  
Jayapura to look 'more  
like an international city –  
more like New York'.**

The Mama Mamas' struggle to stay in their market continues, one Mama Mama saying in a recent interview 'The heart of the town is here. We cannot move – this is our place.' Crimmins says the eviction of the Mama Mamas has been put on hold by the governor of Jayapura; 'The situation is being reviewed.'

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