

19. Human Rights and Governance

Role of human rights and governance in addressing SIDS vulnerabilities including climate change.

A brief by Pacific Islands Forum Secretariat and the Secretariat of the Pacific Communities

1. Human-rights based approach

The brief is aimed at exploring how a human-rights based approach to development can enhance SIDS civil, political, economic, social and cultural life. Consideration is given to the use of international human rights standards to address SIDS concerns and vulnerabilities. The brief also looks at the role of civil and political rights, good governance, political stability and an independent judiciary in advancing economic, social and cultural rights and fostering greater economic investment in the region.

2. Summary

In 2004, leaders of the 16 Member States of the Pacific Islands Forum adopted a Vision for ‘*a region of peace, harmony, security and economic prosperity, so that all of its people can lead free and worthwhile lives*’. Forum Leaders then reaffirmed their commitment to ‘*a Pacific region that is respected for the quality of its governance, the sustainable management of its resources, the full observance of democratic values and for its defence and promotion of human rights*’.

In 2005, Forum Leaders agreed to give effect to their Vision through the “*Pacific Plan for Strengthening Regional Cooperation and Integration*” through four pillars economic growth, sustainable development, good governance and security for the region. The reference to human rights in the Pacific Plan is an acknowledgement by Forum Leaders of their fundamental role in creating a conducive environment so the Forum Island Country citizens are able to realise their full potential thereby constructively contributing to the development growth of their country.

Human rights are specifically addressed in initiative 12.5 of the Pacific Plan under the pillar of good governance which calls for the “*appropriate ratification and implementation of international and regional human rights conventions, covenants and agreements, and support for reporting and other requirements*”. Furthermore, human rights are frequently referenced in the Pacific Plan because they complement its strategic objectives, ensuring a stable environment that will provide equal opportunities and subsequent prospects for development of Forum Island Countries (FICs) and their citizens.

In 2004, United Nations Secretary-General Kofi Annan noted that, “*We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.*”

Over the past two decades, economic growth and development in the Pacific region have been relatively slow¹. Growing poverty and a lack of sustainable livelihood opportunities are evident in many FICs. Lack of access to the benefits from, and control over, natural resources is linked to rising disparities in income, social tension and political instability. For small island economies, the result of globalization is all too often seen in the form of human rights violations, particularly in the economic and social spheres².

Civil and political rights are required to advance economic, social and cultural rights. Economic and social development is best achieved in an atmosphere of political stability supported by an independent judiciary. An environment in which the rule of law is respected will attract greater economic investment.

Security and economic development are linked. Without security there can be no sustained economic development. Persistent and widespread poverty can also undermine the stability of a country. Similarly, if large sections of society have no access to their country's natural wealth or political processes, stability is also at grave risk³.

Today the classic concept of security no longer suffices. There is a need to rethink the concept of security to include also socio-economic and cultural factors - "*human security*". Security in this sense is understood to mean protection of people's basic freedoms but also protection against different kinds of threat. It encompasses also the creation of appropriate structures to protect people's physical integrity and dignity as well as their ability to make a living: *Human security connects different types of freedoms – freedom from want, freedom from fear and freedom to take action on one's own behalf*⁴.

Security in the Pacific region has long been recognised as an essential prerequisite for sustainable development and economic growth. The Pacific Plan identified security as one of the Forum's four key goals with a strategic objective described as improved political and social conditions necessary for stability and safety.

Furthermore, small island populations, the geopolitical environment of FICs together with lack of human capacity and financial resources have resulted in limited capacity to both ratify and report on international norms and standards. Further to this, the lack of knowledge and expertise on understanding the linkages between human rights and development such as the MDGs has resulted in the poor implementation of international norms and standards.

The realisation of human rights is critical to the achievement of all 15 strategic objectives in the Pacific Plan, but particularly to the development goals of: reduced poverty (4); improved health (6); improved education and training (7); improved gender equality (8); recognised and protected cultural values, identities and traditional knowledge (11); improved transparency, accountability, equity and efficiency in the management and use of resources (12); improved

¹ P Imrana Jalal, "Pacific Culture and Human Rights: Why Pacific Island Countries Should Ratify International Human Rights Treaties" (RRRT/UNDP, Suva, April 2006).

² *Ibid*

³ http://www.iiz-dvv.de/index.php?article_id=273&clang=1

⁴ *Ibid*

political and social conditions for stability and safety (13); and increased national ownership and commitment to regional approaches, plans, policies and programmes (14).

3. Key Issues

All rights are fundamental to human development - the right to health is just as critical as the right to freedom of speech, and the right to livelihood is inexorably linked to freedom of movement. These are the essential underpinnings of the right to development. Without support for all human rights, real prospect for communities and for Forum member States to attain sustainable development goals will remain elusive.

The interdependence among all human rights is indisputable. Political and civil rights cannot be advanced without respect for economic, social and cultural rights, and vice versa. Economic and social justice can best be achieved in an atmosphere of political stability supported by an independent judiciary. Furthermore, an environment in which the rule of law is respected will attract greater economic investment⁵.

Economic growth is a means, not the goal, of development. It can also be instrumental for the realisation of human rights. However, economic growth must be achieved in a manner consistent with human rights principles⁶.

It is now generally understood that poverty is a result of *disempowerment* and *exclusion*. Poverty is not only a lack of material goods and opportunities, such as employment, ownership of productive assets and savings, but refers also to the lack of physical and social goods, such as health, physical integrity, freedom from fear and violence, social belonging, cultural identity, organisational capacity, the ability to exert political influence, and the ability to live a life with respect and dignity. Human rights violations are both a cause and a consequence of poverty. A decent standard of living, adequate nutrition, health care, education and decent work and protection against calamities are not just development goals—they are also human rights.⁷

The poor and underprivileged not only have needs, but they also have rights. Therefore, duty-bearers, that is to say, States, have legal obligations to fulfill. These legal obligations, as set out in the core international human rights instruments⁸, underpin both the MDGs⁹ and the Pacific

⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR) - Regional Office for the Pacific, Suva, Republic of the Fiji Islands AND Pacific Islands Forum Secretariat (PIFS), (2009), Discussion paper: Ratification of International Human Rights Treaties: Added Value for the Pacific Region.

⁶ OHCHR, 2006, Frequently asked questions on a human rights based approach to development.

⁷ Human Development Report 2000.

⁸ International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention on the Elimination of All forms of Racial Discrimination; Convention on the Elimination of all forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment; Convention on the Right of the Child; Convention on the Protection of all Migrant Workers and Members of their Families; Convention on the Rights of Persons with Disabilities and Optional Protocol.

⁹ Millennium Development Goals: Adopted by the United Nations General Assembly in its resolution 55/2 of 8 September 2000. See <http://www.un.org/millennium/declaration/ares552e.pdf>; The eight Goals are: (1) eradicate extreme poverty and hunger; (2) achieve universal primary education; (3) promote gender equality and empower women; (4) reduce child mortality; (5) improve maternal health; (6) combat HIV/AIDS, malaria and other diseases; (7) ensure environmental sustainability; (8) achieve a global partnership for development. For a full description of these Goals and corresponding targets and indicators, see http://unstats.un.org/unsd/mi/mi_goals.asp.

Plan's strategic objectives. Despite their commitment to achieving these development goals, not all countries in the Pacific region have extended similar commitments to adherence to essential international treaties on which sustainable development must be built. While the link between human rights and development should now be clear, there are also some less obvious benefits, or added value, for Pacific Island States in ratifying these core human rights treaties¹⁰.

Observations have been made over the past two decades noting that economic growth and development in the Pacific region have been relatively disappointing. Reports prepared by the Asian Development Bank and the United Nations Development Programme (UNDP) have repeatedly attributed the lack of progress to various factors, including poor governance. Growing poverty and a lack of sustainable livelihood opportunities are evident in many Pacific countries. Lack of access to the benefits from and control over natural resources is linked to rising disparities in income, social tension and political instability. Often, the impact of globalisation on small island economies manifests itself in human rights violations, particularly of economic, social and cultural rights¹¹.

The Pacific regional security environment has become increasingly complex and diverse. The region has had to contend with: increasing transnational organised criminal activity in various forms; internal conflicts and crises threatening the stability of Members and their neighbouring States; the ever present global threat of terrorism; governance challenges to government agencies as well as limited legal and law enforcement resources and capacity. These have and continue to contribute to political instability and social tension for Pacific communities and thus have a direct influence on poor economic growth.

Governance refers to mechanisms, institutions and processes through which authority is exercised in the conduct of public affairs. The concepts of good governance and human rights are mutually reinforcing, both being based on core principles of participation, accountability, transparency and State responsibility. Human rights require a conducive and enabling environment, in particular appropriate regulations, institutions and procedures framing the actions of the State. Human rights provide a set of performance standards against which Governments and other actors can be held accountable. At the same time, good governance policies should empower individuals to live with dignity and freedom¹².

Although human rights empower people, they cannot be respected and protected in a sustainable manner without good governance. In addition to relevant laws, political, managerial and administrative processes and institutions are needed to respond to the rights and needs of populations. There is no single model for good governance. Human rights strengthen good governance frameworks and require:

- going beyond the ratification of human rights treaties, integrating human rights effectively in legislation and State policy and practice;

¹⁰ P Imrana Jalal, "Pacific Culture and Human Rights: Why Pacific Island Countries Should Ratify International Human Rights Treaties" (RRRT/UNDP, Suva, April 2006).

¹¹ *Ibid*

¹² OHCHR, 2006, Frequently asked questions on a human rights based approach to development.

- firmly establishing the promotion and deliverance of justice to strengthen the rule of law;
- understanding that the credibility of democracy depends on the effectiveness of its response to people's political, social and economic demands; promoting checks and balances between formal and informal institutions of governance; effecting necessary social changes, particularly regarding gender equality and cultural diversity;
- generating political will and public participation and awareness; and
- responding to key challenges for human rights and good governance, such as corruption and violent conflict¹³.

4. The Pacific context

This section briefly highlights the various statements, decisions, and Declarations of the Forum Leaders relevant to the objective of the paper:

i) Honiara Declaration 1992

Forum Leaders noted that balanced economic and social development, the primary goal of all the countries of the region, could not be achieved without the assurance of safety and security.

ii) Aitutaki Declaration 1997

The Aitutaki Declaration contains guiding principles governing regional security cooperation in the region.

iii) Biketawa Declaration 2000

The Biketawa Declaration recognises 'the importance of averting the causes of conflict...', and the Declaration directs that action to be taken in times of crisis 'must constructively address difficult and sensitive issues underlying causes of tensions and conflict (ethnic tensions, socio-economic disparities, lack of good governance, land disputes and erosion of cultural values)'. It further outlines guiding principles for good governance and courses of action for a regional response to crises in the region namely: '(1) commitment to good governance....; (2) belief in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief and in the individual's inalienable right to participate by means of free and democratic political process in framing the society in which he or she lives...; (3) upholding democratic processes and institutions which reflect national and local circumstances, including the peaceful transfer of power, the rule of law and the independence of the judiciary, just and honest government...; and (4) recognising the importance and urgency of equitable economic, social and cultural development to satisfy the basic needs and aspirations of the peoples of the Forum.'

iv) Nasonini Declaration on Regional Security 2000

The Nasonini Declaration further highlights the regions concerns over and response to transnational crime and terrorism.

¹³ OHCHR, 2006, Frequently asked questions on a human rights based approach to development.

- v) **Leaders Vision of 2004**
Leaders believe the Pacific region can, should and will be a region of peace, harmony, security and economic prosperity, so that all of its people can lead free and worthwhile lives.
- vi) **Pacific Plan 2005**
Leaders have stated that they seek a Pacific region that is respected for the quality of its governance, the sustainable management of its resources, the full observance of democratic values and for its defence and promotion of human rights.
- vii) **Port Vila Declaration on MDGs 2010**
Forum Leaders welcomed the commitment to improve the lives of all impoverished people around the world under the United Nations Millennium Declaration and its implementation through the Millennium Development Goals and its commitment to Forum principles of democracy, good governance, broad-based economic growth, security and sustainable development, as espoused through our commitment to regional cooperation and integration under the Pacific Plan.
- viii) **Forum Leaders' Decisions on the Universal Periodic Review (Forum Communiqué 2011)**
Forum Leaders welcomed the successful participation of all Forum members in the first round of the Universal Periodic Review (UPR) to the UN Human Rights Council as major regional achievement. They acknowledged the support and assistance to Members in their reporting efforts from the Forum Secretariat, the Regional Rights Resource Team of the Secretariat of the Pacific Community and the UN Office of the High Commissioner for Human Rights. Leaders noted the development of this cooperation, and the networks created by this activity, represent an important source of human rights expertise for the entire region.

The objectives of the review are:

- i. the improvement of the human rights situation on the ground;
- ii. the fulfillment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State;
- iii. the enhancement of the State's capacity and of technical assistance, in consultation with, and with the consent of, the State concerned;
- iv. the sharing of best practice among States and other stakeholders;
- v. Support for cooperation in the promotion and protection of human rights; and
- vi. the encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights.

ix) The Pacific Human Security Framework

The Human Security Framework goal in the region is a Pacific where communities, families and individuals are secure and safe from threats to their wellbeing and dignity, and enjoy political stability, sustainable economic development and social fulfilment in the unique context of the region.

The abovementioned pronouncements by Forum Leaders outlines the Forum's commitment to ensuring that the region's political, legal, governance, conflict and security structures are in place to ensure peace, harmony, security and economic prosperity for the peoples of the Pacific region. These Forum Declarations further serves as a yardstick for measuring the success of development work in the region.

References

1. Aitutaki Declaration 1997
2. Biketawa Declaration 2000
3. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
4. Convention on the Right of the Child
5. Convention on the Elimination of all forms of Discrimination against Women
6. Convention on the Elimination of All forms of Racial Discrimination
7. Convention on the Protection of all Migrant Workers and Members of their Families
8. Convention on the Rights of Persons with Disabilities and Optional Protocol
9. Honiara Declaration 1992
10. http://www.iiz-dvv.de/index.php?article_id=273&clang=1
11. Human Development Report 2000
12. International Covenant on Civil and Political Rights
13. International Covenant on Economic, Social and Cultural Rights
14. Leaders Communiqué
15. Leaders Vision of 2004
16. Nasonini Declaration on Regional Security
17. P Imrana Jalal. "Pacific Culture and Human Rights: Why Pacific Island Countries Should Ratify International Human Rights Treaties" (RRRT/UNDP, Suva, April 2006).
18. Pacific Plan 2005
19. Port Vila Declaration on MDGs
20. The Pacific Human Security Framework