

INTRODUCTION:
CONTEMPORARY CHALLENGES IN THE PACIFIC –
TOWARDS A NEW CONSENSUS

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In November 2001, about one year ago, we succeeded in publishing the first issue in this special new series of the *Revue Juridique Polynésienne*, with the goal of promoting a better understanding of legal, constitutional, political, social, economic, cultural and environmental issues facing the Pacific region. That issue also was an expression of an editorial partnership unusual in its commitment to the promotion of improved communications among French-speaking and English-speaking authors with research interests in the Pacific. The *RJP* offers such scholars opportunities to reach a different and wider audience. Each article is preceded by abstracts in both languages and the entire publication is available on the internet through the website address given on the opening pages of the issue.

The first of these two special issues included 14 articles, eight in English and six in French. In addition to the bilingualism of the abstracts, it was possible to publish one of the articles (by Gaston Flosse, President of the Government of French Polynesia) in full in both French and English versions.

This second special issue contains a comparable number of articles, 15, including eleven in English and a further four in French. Once again, abstracts in both French and English precede the articles themselves. In addition, each issue begins with two completely separate introductions from the editors, one written in French and the other in English.

It is appropriate to look at the contents of the two issues together, considered as a single entity, since after all the two special issues are described on their front covers as 'Volume 1' and 'Volume 2' respectively of a work entitled *Contemporary Challenges in the Pacific: Towards a New Consensus*. In the light of the 29 articles now published, we can reflect on what these 'contemporary challenges' might be and, equally, on whether much progress has been made along the path 'towards a new consensus' and, if so, of what that 'new consensus' might actually consist.

The first issue, Volume 1, included articles on a range of 'contemporary challenges':

- Constitutional government, democracy and the rule of law
- Global warming, sea-level rise and environmental problems
- Globalisation and its effects on Pacific economies and cultures
- Global crime and its impact on Pacific polities

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While some articles in Volume 1 focused on the outlook and behaviour of particular states – New Zealand, Japan, China and Taiwan – it could be said that these studies also implicitly drew attention to a further ‘contemporary challenge’: namely, the effort to encourage in those countries leadership that is informed, engaged and sensitive to Pacific Island predicaments and concerns. A further ‘challenge’ that served as a focal point for analysis for several contributors was the effort to develop laws and institutions relevant to the particular circumstances of Pacific Island states or territories, whether they be independent or linked in some way to a larger entity.

This second issue, Volume 2, develops many of these concerns further while also embarking on some new directions. The emphasis on the behaviour of larger powers, and their capacity to influence the affairs of Pacific Island states in both positive and negative directions, has been extended in this second issue. This is evident in John Henderson’s article dealing with the approach taken to the political status option of ‘free association’ by the United States – which has three such arrangements with Pacific Island entities, namely, with the Marshall Islands, the Federated States of Micronesia and Palau – and by New Zealand, whose ‘free association’ arrangements are with the Cook Islands and with Niue. Some implications arising out of the relationship between New Zealand and Niue are explored in a separate article (by Andrew Townend) dealing with matters of legal process and constitutional design.

A further paper, by Tony Angelo, extends the analysis of political status options by reviewing the choices available, and their salient characteristics, in some detail. This broader, comparative perspective is also followed in the article by Richard Herr, whose review of contemporary challenges facing Pacific Island states takes place against the background of his own assessment of such matters a decade earlier. It is clear that the end of the cold war did not produce anything like an ‘end to history’ – a fairly preposterous notion in any event – for Pacific Island states. The end of their political, social, economic and cultural strivings for integrity, security, sustainability and prosperity is nowhere in sight, and nor should we expect it to be any time soon.

The main themes or ‘contemporary challenges’ identified in this second issue include:

- Constitutional government, democracy and the rule of law
- Political status options
- Regional co-operation
- Electoral system issues
- Economic development
- Access to resources

The articles by Rob Salmond and Jon Fraenkel identify some of the factors that need to be taken into account in the design of electoral systems. In established democracies and in countries newly embarking on a democratic path, it is clear that there is no single view – no ‘consensus’, in other words – about which voting system makes for the best results for a country and its people. Even with the best will in the world – and that, needless to say, is not

always present – it can be difficult to design, introduce and implement an electoral system that will provide for democratic choice and effective government. Salmond’s creative yet cautious presentation adds a new dimension to the debate on ‘democratisation’ for Tonga – it is not simply a matter of being ‘pro-democracy’ or not; there is a question of what sort of institutions, electoral or otherwise, need to be introduced for the democratic vision to best be realised – while Fraenkel’s paper on Fiji draws attention to the sometimes untoward results that can occur, to frustrate what may be the admirable intentions of would-be electoral engineers. The at times unanticipated consequences of electoral system change are also a feature of a second article on Fiji, by Ian Fraser, which explores ongoing constitutional issues arising out of perhaps somewhat impractical provisions relating to Cabinet formation.

Studies of contemporary Pacific Islands politics often speak of the tension between Western values and indigenous customs and traditions. This dichotomy, although in some ways problematic, can at times prove useful. These contrasts in perspective can be given expression in diverse ways. Manuhua Barcham’s article describing the failure of an economic reform programme for Papua New Guinea offers a cautionary tale about the limits of external prescriptions for indigenous policy-making. In this instance, the reality of Papua New Guinea’s particular circumstances proved highly resistant to World Bank remedies, however ‘rational’ or compelling they may have appeared to be in the abstract.

Land issues are, of course, a major concern in all island states. This reflects underlying cultural values as well as political/nationalistic views about rights to ownership (or use) by non-indigenous individuals, groups or business interests. The conflict between ‘traditional ways of doing things’ and developmental imperatives with respect to land is explored in Sue Farran’s commentary on land, culture and national identity in Vanuatu. Comparable issues evoke strong feeling in New Zealand as well. The study by Richard Boast and Yves-Louis Sage of New Zealand’s Resource Management Act (passed in 1991) shows some of the difficulties involved in attempting to balance the at times sharply competing concerns of environmental protection, economic development, and fidelity to indigenous values (embodied, in this case, in a pivotal treaty establishing the New Zealand polity).

My own study of the role of constitutional conventions in New Zealand also places great emphasis on values, customs and traditions. In this case, the ancestral inheritance dates back not to the primordial pre-contact past but rather to the political and legal concepts and constructs developed in the centuries-old struggle for parliamentary supremacy and executive accountability in the United Kingdom. Implicitly the paper treats New Zealand as a Pacific Island state – as it is – notwithstanding its membership by other criteria in the wider Western family of nations. This dual identity allows New Zealand to be juxtaposed with other Pacific Island countries whose internal politics are much more ‘traditional’ in the usual sense of that word. At the same time, however, New Zealand has its own customs and traditions – some of them serving as principles underpinning its political and constitutional arrangements – and these may be as important within the New Zealand context as more ‘traditional’ practices are in Pacific Island communities.

The review by Michael Powles of the behaviour of Pacific Island states at the United Nations also regards New Zealand as a Pacific Island country (though one with wider

attachments). Powles' article is an insider's contribution, as he was privileged to represent New Zealand at the UN. Consequently he is well placed to offer a unique, authoritative overview of the role played by Pacific Island states in New York and at other UN forums. The rules of UN membership offer Pacific Island nations opportunities to exert influence far in excess of their 'power' in real terms. While particular Pacific Island countries will have their own distinctive interests, Forum member states often work together to complement one another in UN settings. Whatever the merits of academic discussion about whether or not the Pacific Islands constitute a genuine 'region', it is evident that the island states themselves value the capacity to speak with a regional voice on matters that concern their future prospects and well-being.

Another paper drawing attention to regional issues is that of Laurence Cordonnery, whose study of Pacific fisheries concentrates on a UN convention concerning the 'conservation and management of highly migratory fish stocks', specifically the four main species of tuna. This paper further develops a topic analysed in Volume 1, in the discussion by Ronni Alexander of Japanese policy towards fisheries and towards this particular UN convention (see Volume 1, pp. 134-7).

Issues of political status, citizenship, legislative powers, electoral systems and voting rights in the French Pacific territories were a feature of several of the articles in Volume 1 of this special *RJP* series. In Volume 2, the limits of autonomy in contemporary French Polynesia are emphasised in the paper submitted by Marc Joyau of the University of French Polynesia. The paper from Gérard Chianéa looks at legal traditions and cultural values, in this case in the context of the relationship between the state and religion in contemporary France.

We often speak abstractly about the way that Western and traditional values and practices compete and at times conflict with each other within Pacific societies. What may be overlooked in this is that these conflicting tendencies interact with each other at the individual as well as the societal level. The rather personal article by Rosita Hoffmann provides an account of the cross-cutting pressures at work on an individual who unquestionably belongs both to Polynesia and – through her aspirations and her achievements – to the wider world as well.

We have spoken in the title of these two special issues of the *RJP* not only about 'challenges' but also about 'a new consensus' as well. Can we say that there is a *new* consensus and, if so, how may it be distinguished from what has gone before?

All attempts to describe overall trends and tendencies – like 'the Pacific Way' – require a significant degree of oversimplification. That said, an 'old consensus' – that is, a generally widespread view – could be said to have consisted of the following themes:

- Western colonial rule must come to an end;
- Pacific Island communities should be given their independence;
- Pacific Island states and territories are best constituted as democracies, with political institutions embedded in Western-style constitutions;
- Indigenous customs and traditions should be respected to the fullest extent possible;

- Western technical and financial assistance should be provided on an ongoing basis to assist Pacific Island states to develop their economies and provide for the welfare of their peoples.

A 'new consensus' at the outset of the 21st century might look something like this:

- Pacific Island communities should be given the opportunity to choose from among a range of political status options;
- Human rights and democratic processes should be protected to the fullest extent possible;
- Pacific Island political institutions should reflect the cultural features of Island communities as well as the requirements for 'good governance';
- International assistance should complement domestic policies designed to enhance prospects for sustainable development;
- Pacific Island societies face enormous challenges – economic, environmental, social, cultural, security, demographic, financial and political – that may be beyond their capacity to overcome;
- Pacific Island states need to take an active role in regional affairs and within international organisations in order to enhance their influence and enlarge their prospects to survive.

These issues of the *RJP* come at a time of global warming and sea level rise, threatening the very existence of low-lying atoll states. This collection of papers also emerges in the aftermath of violence in the Solomon Islands, in the midst of unresolved strife in West Papua, and against a backdrop of years of bloodshed in Bougainville. A series of coups, some 'successful', others not, scar the recent past for Fiji. In such circumstances an alternative title for these two issues, one that captures the tentative (and more sceptical) view of Pacific Island prospects, would be 'Pacific Challenges: Island Politics in the Twenty-First Century'. Who can say what direction Pacific Island politics may take as this already turbulent century moves on its unsteady path forward towards new traumas and tragedies?

A US President, Woodrow Wilson, suggested that his country was participating in the first World War 'to make the world safe for democracy'. Adapting his words, President John F. Kennedy foresaw a more nuanced challenge standing in the way of a transformed international environment. He observed that the challenge now was 'to make the world safe for diversity' and today, in the Pacific as elsewhere, this is a challenge that remains unfulfilled. While it is possible to reflect upon the broad contours of a 'new consensus', in practice there is much to separate and distinguish the political, constitutional and legal experience of one Pacific Island country from another. Such diversity of political experience presents a problem for no one so long as it is recognised that heterogeneity has its limits. In the Pacific, as elsewhere, neither national sovereignty nor claims to indigenous cultural norms offer acceptable cover for infringements on human rights or for practices that offend against human decency and the requirements of a civilised order.

Together these two volumes represent a substantial achievement. As editors, we are grateful to our authors for their contributions and to others who have played a role in developing these two special issues. Viewed in their entirety, the 29 articles and four introductory overviews encompass a diverse and significant range of countries and topics. Through the generosity of those who have given their support to the *RJP*, it has been possible in less than a year to assemble, edit and publish what together comprises a roughly 600-page book, professionally presented and attractively produced. Two original works of art have been donated to grace the front covers of these two issues, justifying – as with some other works of art – the numbering of each journal copy as one of a limited set.

In the previous issue, it was noted that a result of the approach taken by the editors was to influence perceptions not only of the Pacific but also of the *RJP* itself. It seems now even more appropriate than before to consider this unusual journal – its parentage both New Zealand and French Polynesian in origin – as one committed to original, thought-provoking research on interesting and contemporary Pacific issues. In a precarious world in search of security, it is still the case that, in the long run, a more humane and sensitive international order requires greater understanding and a sense of humility in the presence of the unfamiliar. In this effort, the scholarly enterprise continues to have its own modest role to play.