

# **Climate Change and Indigenous People in the South Pacific**

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## **Abstract**

The South Pacific consists of 16 island States including Australia and New Zealand. Apart from Australia, Papua New Guinea and New Zealand, the majority of the Pacific Island countries are made up of atolls and outlying islands. The countries with bigger land mass and high rise mountains with forest cover are those that are located within Melanesia – Papua New Guinea, Solomon Islands, Fiji, Vanuatu and New Caledonia.

In 2008, it has been estimated that there are 9.5 million indigenous people in the South Pacific. Of this 6.1 million indigenous people are Papua New Guineans. The indigenous people live on traditional or customary owned land using customary rules and practices to govern their daily affairs.

An important maxim in the South Pacific is: “land is life, without land there is no life”. Indigenous people of the South Pacific guard their land fearlessly against their enemies. This maxim is being challenged by a new enemy – climate change. Unlike in the past where indigenous people knew who their enemies were and devised strategic plans to counter the enemy, climate change is an unknown enemy which will destroy their land, reefs, waters, forests and their livelihoods. Indigenous people are confronted with a new threat which they cannot understand nor explain but can feel the effect of this new threat.

This paper looks at the threat posed by climate change and examines the key issues that need to be considered as governments in the South Pacific search for political, legal and economic solutions for their people.

## **Introduction**

The South Pacific consists of 16 island States including Australia and New Zealand. Apart from Australia, Papua New Guinea and New Zealand, the majority of the Pacific Island countries are made up of atolls and outlying islands. The countries with bigger land mass and high rise mountains with forest cover are those that are located within Melanesia – Papua New Guinea, Solomon Islands, Fiji, Vanuatu and New Caledonia.

In 2008, it has been estimated that there are 9.5 million indigenous people in the South Pacific. Of this number of people about 8 million are found in Melanesia. Papua New Guinea alone has approximately 6.1 million indigenous people. The indigenous people live on traditional or customary owned land using customary rules and practices to govern their daily affairs.

An important maxim in the South Pacific is: “land is life, without land there is no life”. Indigenous people of the South Pacific guard their land fearlessly against their enemies. This maxim is being challenged by a new enemy – climate change. Unlike in the past where indigenous people knew who their enemies were and devised strategic plans to counter the enemy, climate change is an unknown enemy which will destroy their land, reefs, waters, forests and their livelihoods. Indigenous people are confronted with a new threat which they cannot understand nor explain but can feel the effect of this new threat.

This paper looks at the threat posed by climate change and examines the key issues that need to be considered as governments in the South Pacific search for political, legal and economic solutions for their people.

## **The people, land and environment of the South Pacific**

The islands of the South Pacific were inhabited by the first humans about 50,000 years ago from what is now East Indonesia and Southern Philippines. About 3,500 to 4,000 years ago, most of what is now Polynesia and Micronesia were settled. Then about 800 years ago, New Zealand was settled and the rest of the inhabitable land in Polynesia, Micronesia and Melanesia were all settled.<sup>1</sup>

A reference to the South Pacific for most people would usually mean the countries located south of the Equator. For the people of the South Pacific, it means the countries of the region which are inhabited by indigenous peoples. The indigenous peoples of the South Pacific are traditionally grouped into three (3) major cultural groups: Melanesia, Polynesia and Micronesia.

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<sup>1</sup> Crocombe, R., *The South Pacific* (Suva: University of the South Pacific, 2001) 9.

Polynesia is made up of Samoa, Tonga, Cook Islands, Tokelau, Tuvalu and Niue. Micronesia comprises Kiribati, Marshall Islands, Palau and the Federated States of Micronesia.

Melanesia has the largest groups of islands and a little over two thirds of the region's population. It also has the highest and most diverse biodiversity in the region. Polynesia and Micronesia consist mostly of small isolated islands.<sup>2</sup> The region is primarily connected by the Pacific Ocean.

The indigenous people of the South Pacific depend largely on their land and the sea for their daily sustenance. In almost all the South Pacific island countries, indigenous people own 90% of the land while the state owns less than 10%. Land to the indigenous people is their life. Without land, they have no place and no identify. Land is therefore fiercely guarded by the indigenous people from threats that may emerge within or outside their area.<sup>3</sup> The indigenous people utilize their land using traditional knowledge and practices which have been passed down from time immemorial. The indigenous people of the South Pacific have developed highly sophisticated techniques of gardening and fishing which have proved successful for them for many centuries. In fact archeological evidence suggests that some of the world's first agriculturalists were from the South Pacific, particularly from Papua New Guinea.<sup>4</sup>

The indigenous people have an intricate relationship to their environment and its biodiversity. The relationship between the environment and the people is one of interdependence. They have deep traditional knowledge about their sea and forests and elaborate traditional practices expressed through dances and customary rites of their environment.<sup>5</sup>

Many of the countries in the South Pacific have taken policy and legislative measures to protect, strengthen, maintain and even review existing policy and legal frameworks to promote traditional knowledge, practices and technologies. Generally, the protection of traditional knowledge and practices is entrenched in the constitutions of the countries of the South Pacific. Almost all these constitutions expressly state that traditional knowledge which is embodied in customary law and practices shall be part and parcel of

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<sup>2</sup> Ibid, p126.

<sup>3</sup> Haynes, C. P, "Succession to Land in Papua New Guinea", paper presented at the Australian Universities Law Schools Association Conference at Macquarie University, (Sydney, 1981) 1. See also Fingleton, J. S "Land Policy in Papua New Guinea" in Weisbrot, D, Paliwala, A and Sawyer, A, (ed), *Law and Social Change in Papua New Guinea*, (Sydney: Butterworth, 1982) and a more recent publication on the subject, AusAID., *Making Land Work: (Vol 1) Reconciling Customary Land and Development in the Pacific* (Canberra: AusAID, 2008); and AusAID., *Making Land Work: (Vol 2) Case Studies on Customary Land and Development in the Pacific* (Canberra: AusAID, 2008).

<sup>4</sup> Archeological finds at the Kuk World Heritage Site in the Western Highland Province of Papua New Guinea suggest that agriculture began in this part of the world 10,000 years ago. See Ketan J and Muke J, *National Heritage Management: A Site Management Plan for the Kuk World Heritage Project in Papua New Guinea* (Port Moresby: UPNG Press, 2001).

<sup>5</sup> For a detailed discussion on this subject see Kwa, E, "Traditionalizing Sustainable Development: The Law, Policy and Practice in Papua New Guinea" (PhD Thesis, Auckland University, New Zealand, 2005).

the legal system of the country.<sup>6</sup> Thus section 9, and Schedule 2.1, of the PNG *Constitution*; sections 49 and 74 of the Vanuatu *Constitution*; Article X of the Marshall Islands *Constitution*; sections 100 and 111 of the Samoa *Constitution*; section 76 and Schedule 3 of the Solomon Islands *Constitution*; section 422 of the *Cook Islands Act* 1915; the preamble of the Kiribati *Constitution*; Article V(2) of the *Constitution* of the Federated States of Micronesia<sup>7</sup> and the preamble of the Tuvalu *Constitution* – all these adopt the traditions, cultures, and customs of the people as a guiding legal principle and also a source of law for these states.<sup>8</sup>

The *Constitution*, being the supreme law of most of the South Pacific countries, lays the foundation for the protection, maintenance and promotion of traditional knowledge, practices and innovations. This constitutional mandate has been translated into various national laws which entrench the position of custom. Examples include: the *Village Fono Act* 1990 and the *Land and Titles Act* 1981 of Samoa; the *Laws of Tuvalu Act* 1987 of Tuvalu; *Laws of Kiribati Act* 1989 of Kiribati which is based on the *Customs Recognition Act* 1969 of PNG; *Custom and Adopted Act* 1971 of Nauru and *Tokelau Village Incorporation Regulations* 1986 of Tokelau.<sup>9</sup>

In relation to the environment and natural resources management, a lot of work has been done to promote biological conservation and sustainable use through the use of custom and traditional practices and innovations. In Vanuatu, the recently enacted *Environmental Management and Conservation Act* 2002 adopts as one of its key goals, the protection, promotion and strengthening of fundamental traditional values and principles pertinent to biological conservation and sustainable use. A similar legislative arrangement can be found in the *Conservation Areas Act* 1978 and the *Fauna (Protection and Control) Act* of PNG. The *Conservation Act* 1986/1987 of Cook Islands; the *Coast Conservation Act* 1988 of Marshall Islands; the *Parks and Reserves Act* 1988 of Tonga<sup>10</sup>; the *Fisheries Act* 1998 of Solomon Islands; the *Marine Protection Act* 1994 of Palau and the *Madolenihmw Protected Areas Act* 2002 of Pohnpei indicate the seriousness of the Pacific island countries' intention to implement their international obligations under the relevant regional and multilateral treaties.<sup>11</sup>

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<sup>6</sup> Ibid, at 121.

<sup>7</sup> For a discussion on this provision of the Constitution of the Federated States of Micronesia see Dang L, 'Country Report: Federated States of Micronesia' in Secretariat of the SPC, *Symposium on the Protection of Traditional Knowledge and Expressions of Indigenous Cultures in the Pacific Islands* (Noumea: SPC, 1999) 35.

<sup>8</sup> See generally Sack P (ed), *Pacific Constitutions* (Canberra: ANU, 1982); Ntomy M (ed), *South Pacific Islands Legal Systems* (Honolulu: Hawaii University, 1993); Ghai Y (ed), *Law, Politics and Government in the Pacific Island States* (Suva: University of South Pacific, 1988) and Boer B (ed), *Environmental Law in the South Pacific* (Gland: IUCN, 1996).

<sup>9</sup> Ntomy, *ibid*.

<sup>10</sup> Boer, *ibid*.

<sup>11</sup> Kwa, n5, p123. The author and three other colleagues (Donna Craig – Macquarie University, Centre for Environmental Law, Yoli Tom'taval – South Pacific University Law Faculty, and Justin Rose – New England University Law School) conducted a series of case studies in Melanesia and Pohnpei examining the integration of custom law and state law in the management of the environment and natural resources from 2006-2007. The project entitled "Indigenous Governance of Natural Resources in Melanesia: A Project to Develop Legal Capacity-Building Strengthening Community-Based Institutions, Customary

Indeed, there is strong evidence to show that the custom and practices of the indigenous people of the South Pacific are taken seriously by the countries in the region. Custom, traditional practices and technologies are clearly safeguarded in the national constitutions. Although attempts to translate this constitutional mandate into workable programmes, vary from one country to another, there is ample evidence that concrete attempts have been made and are being made to promote and strengthen traditional knowledge and technologies especially in the area of law and policy.<sup>12</sup>

The main challenge for governments of the South Pacific is that although the constitutional and legal frameworks do recognize the rights of indigenous people and their customs and traditional practices, how can they guarantee these people the continuation of their customs and traditional ways of life in the same place and environment into the future in the face of climate change which will displace many of these people. Clearly the existing legal framework is not adequate to respond to emerging climate change crisis in the South Pacific. A new institutional, administrative and regulatory approach is imperative to address issues of climate change in the region.

### **Climate Change and its effect on the land and environment**

In the introduction to the Human Development Report 2007/2008, the Administrator of the United Nations Development Programme (UNDP), Kemal Dervis and the Executive Director of the United Nations Environment Programme, Achim Steiner noted with concern that:

... development progress is increasingly going to be hindered by climate change. So we must see the fight against poverty and the fight against the effects of climate change as interrelated efforts.<sup>13</sup>

The point made by Dervis and Steiner cannot be expressed any better. Climate change will be an obstacle to development particularly for the developing countries. The theme for the UNDP 2007/2008 Human Development Report is climate change. The walk on the road from Rio in 1992 with the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) to Kyoto in 1997 to Bali in 2007<sup>14</sup>, shows that the global community is still struggling to come to terms with the real and wider implications of climate change. In its Fourth Assessment Report 2007, the Intergovernmental Panel on Climate Change again shows that the global temperature is increasing and that effects of climate change are more transparent throughout the world. The targets set by the Kyoto Protocol in 1997 seem to be way off the mark for the global community.

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Laws and Environmental Management Approaches” was funded by the Christensen Fund. The case studies show that custom law plays a vital role in the management and management of the environment and natural resources in the contemporary states.

<sup>12</sup> Ibid.

<sup>13</sup> United Nations Development Programme., *Human Development Report 2007/2008. Fighting Climate Change: Human Solidarity in a Divided World* (New York: UNDP, 2008) vi.

<sup>14</sup> Conference of Parties (COP) 13.

Climate change has and will affect:

- agriculture production and food security;
- water resources;
- sea level rise;
- ecosystems and biodiversity; and
- human health.

The effects of climate change are being felt and will affect the most vulnerable people and communities, especially those in developing countries. Food production will be adversely affected by the changing weather patterns leading to food insecurity. Water resources will be reduced leading to armed conflicts. Sea level rise will affect coastal and island communities. Their homes and land will be inundated with salt water leading to land scarcity. Those living on small atolls such as those in the South Pacific will be greatly affected leading to population displacement and migration.<sup>15</sup> Biodiversity and ecosystems will be disrupted and damaged, and human health will deteriorate as people search for new food and medicines as their traditional sources are lost.<sup>16</sup>

The 2007/2008 Human Development Report shows that climate change is an ever increasing threat to all of humanity. A concerted effort is needed to tackle this threat. As poignantly stated in the Report: “No one country can win the battle against climate change acting alone. Collective action is not an option but an imperative.”<sup>17</sup> Global action specified in the Kyoto Protocol is not working. A new framework is required to tackle the problem of climate change. The UNDP proposes a series of actions including:

1. Developing a multilateral framework for avoiding climate change under the post 2012 Kyoto Protocol;
2. Adopt policies for sustainable carbon budgeting;
3. Strengthen framework for international cooperation; and
4. Put climate change adaption at the centre of the post 2012 Kyoto framework.<sup>18</sup>

These proposals do not seem any different to those that were proposed prior to 1992. In fact proposals 1 and 3 are not unusual and are expected from UNDP. Proposal 2 and 4 will again largely depend on the political will of the leaders of the global community.

## **Climate Change Issues for the South Pacific**

What then are the climate change issues for the South Pacific? The issues that have been identified above are pertinent to the South Pacific. Given their geographical location and

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<sup>15</sup> ESCAP., *Impact Assessment and Regional Response Strategies for Climate Change* (New York: ESCAP, 1999) 16.

<sup>16</sup> See 2007/2008 UNDP Human Development Report, *supra*.

<sup>17</sup> *Ibid*, p5.

<sup>18</sup> *Ibid*, p17-18.

their sizes, South Pacific countries are clearly vulnerable to the adverse effects of climate change. Even larger size countries such as those in Melanesia are also vulnerable to the impacts of climate change.<sup>19</sup>

Climate change will affect the agriculture production and food security of the island communities, their water resources, their land and their livelihoods. Their ecosystems and their environment and human health will severely be affected.

In the face of this new challenge it must also be noted that most of the South Pacific countries perform poorly in their human development. Apart from Tonga and other countries in the Polynesian region, the human development indicators of the countries in Melanesia (apart from Fiji) and most in Micronesia are poor. South Pacific countries are confronted with poverty, high mortality and low literacy rates, limited access to education and other basic services. Most South Pacific countries are also unlikely to achieve the eight Millennium Development Goals by 2015. The international non-governmental organization, World Vision argued in 2006 that South Pacific countries will fail to achieve the 8 MDGs by 2015.<sup>20</sup> The South Pacific countries and the indigenous people must therefore deal with both climate change and human development issues that confront them daily. Both are interrelated.

Increase in land loss and water shortage, agriculture disturbances and food insecurity due to rising sea level will exacerbate poverty in the region. Indigenous peoples of small island countries such as Kiribati, Niue, Marshall Islands, Tokelau, Tuvalu, Nauru and small atolls of Papua New Guinea and Vanuatu stand to lose everything due to sea level rise.<sup>21</sup> These people will not only lose their land, natural resources and their livelihoods, but also their countries. Their status as nation states will be lost forever. The loss of their land and resources will also affect their cultural and social identity. They will become climate refugees and have to be forced to adopt new and strange customs and practices. Three cases on point are: (1) Tuvalu and Kiribati; (2) Lateu Village in Vanuatu; and (3) Carteret Islands in Papua New Guinea.

In the case of Tuvalu, the whole island nation with a population of about 9,500 is faced with the possibility of extinction as a sovereign nation. The indigenous people of Tuvalu will have to relocate creating for the first time – climate refugees.<sup>22</sup> In Kiribati, two uninhabited islands, Tebua and Abanuea disappeared underwater in 1999. Since then several of its inhabited islands face the threat of disappearing underwater. In the second case, the people of Lateu Village on the island of Tegua were relocated to higher ground after their coastal homes were devastated by repeated large surging waves. New land had

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<sup>19</sup> Nunn, P, "Sea-level Changes and their Effects on Tropical Pacific Island Environments: The Next Hundred Years" in Grzechnik, M and Chittleborough, J (ed)., *Pacific Islands Conference on Climate Change, Climate Variability and Sea Level Rise: Linking Science and Policy* (Adelaide: The National Tidal Facility, Australia, 2001) 59 at 61

<sup>20</sup> World Vision., *How are the Neighbours? The Millennium Development Goals & Our Region 2006* (Melbourne: World Vision, 2006) 1.

<sup>21</sup> *The Guardian*, November 25, 2005.

<sup>22</sup> For the plight of the Tuvaluans see <http://www.wwf.org.au/articles/climate-refugees-in-a-drowning-pacific>

to be identified by the government to relocate the 100 indigenous people.<sup>23</sup> In the third case, the people of Carteret Islands of Papua New Guinea, numbering a little less than 2000, are also on the verge of becoming dislodged to their traditional lands and way of life. Three of the islands Piul, Han and Huene, are almost under water. The islands are no longer fit for habitation.

New and emerging health issues also confront the indigenous people of the South Pacific. For instance, in the highlands of Papua New Guinea, malaria which was unknown to the people has become a new threat to their lives. Sorcery is being blamed as the cause of death for people who are dying of malaria because highlanders are not familiar with this illness.

The fragile ecosystems and biodiversity of the South Pacific will be adversely affected by the effects of climate change. Papua New Guinea which contains about 6-8 percent of the world's biological diversity<sup>24</sup> stands to lose many of its endemic species due to rising sea levels and changes in climatic patterns. The smaller Pacific Island states will also lose most of their biodiversity.<sup>25</sup>

These climate change effects are happening and will happen without the direct involvement of the indigenous people of the South Pacific. Although the people of the South Pacific are familiar with the intrusion of their lives by foreigners<sup>26</sup>, climate change provides a new challenge for them. They are dealing with an unknown enemy which threatens their very existence. The people of Lateu village in Vanuatu, the Carterets of Papua New Guinea, Tuvalu and Kiribati have been unable to deal with this new enemy. They face hopelessness. In a region where, land is life, these climate refugees will forever be outcasts and foreigners in a strange land wherever they are going to be relocated.

Unfortunately the indigenous people of the South Pacific are ill prepared to tackle the issue of climate change. At the community level, they can feel and see the effects of climate change. However, they have very little knowledge about climate change. They are therefore unable to effectively devise strategies to mitigate the impacts of climate change on their livelihood.

In Papua New Guinea, for instance, several indigenous groups have organized themselves as Climate Change Societies. A closer examination of the membership and the leadership of these organizations reveal that these are ordinary people who have very limited knowledge about climate change. In a recent meeting in Port Moresby, the capital of Papua New Guinea, I asked the members of these climate change societies about the aims and objectives of their organizations, and I was informed that their principal objective was the preparation of their members for carbon trading. When I further inquired about

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<sup>23</sup> ENS, December 6, 2005.

<sup>24</sup> Papua New Guinea Department of Environment and Conservation., National Biodiversity Strategy and Action Plan 2007 (Port Moresby: DEC, 2007) 4.

<sup>25</sup> Nurse, L, et al, "Small Island States" in Watson, R, Zinyowera, M and Moss, R, (ed)., *The Regional Impacts of Climate Change: An Assessment of Vulnerability* (Cambridge: IPCC, 1998) 343.

<sup>26</sup> Crocombe, n1, supra.

their knowledge in carbon trading, I was not surprised to learn that they had very little knowledge about the process.

If local indigenous communities are not familiar with the issues of climate change, the situation is no different for the government and bureaucracy at the sub-national and national levels. This lack of knowledge, institutional and human capacities has hindered the progress of relevant and appropriate regulatory framework in the South Pacific countries.

## **Responding to Climate Change in the South Pacific**

The indigenous people of the South Pacific, like indigenous people of other parts of the developing world, are clearly vulnerable to the negative impacts of climate change. A workable programme and achievable action plan on climate change is imperative for the South Pacific countries.<sup>27</sup>

Since the adoption of the Kyoto Protocol in 1997 and its entry into force in 2005, the regional environmental programme, the South Pacific Regional Environment Programme at the regional level, has initiated a series of activities on the subject to help South Pacific countries to deal with climate change. The most notable ones being the “Pacific Islands Climate Change Assistance Program” introduced in 1997 and the “Pacific Islands Framework on Climate Change, Climate Variability and Sea Level Rise” introduced in 2000. The first programme was designed to strengthen the capacities of several countries in terms of training, institutional strengthening and planning for meeting of reporting commitments under the UNFCCC. The second programme was adopted to promote action and strengthen partnerships at all levels. It was aimed at enabling islanders to understand and respond to climate change and sea level rise.

These two regional initiatives were temporal in nature because as projects, they ceased when funding ended. A concrete integrated climate change program is therefore lacking at the regional level.

At the national front, South Pacific countries are required to develop appropriate domestic policy and legal framework to deal with climate change. The main challenge would be to implement the mechanisms provided by the Kyoto Protocol. The main benefit for developing countries including the countries of the South Pacific is the Clean Development Mechanism (CDM) provided for under Article 12 of the Protocol.

Member countries of the South Pacific are given the opportunity to develop and identify projects which can qualify under the CDM to enable them to access funds to promote sustainable development. From a theoretical perspective, this mechanism provides a conduit for indigenous communities to access much needed funds and other assistance to adopt adaptation measures to mitigate the effects of climate change on their land, environment and their livelihoods. However, the CDM process is quite lengthy and

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<sup>27</sup> See generally [www.earth-policy.org/Updates/Updates2.htm](http://www.earth-policy.org/Updates/Updates2.htm)

complex and thus difficult for many South Pacific countries and the indigenous people to access and successfully implement.

The absence of a strong regional action plan on climate change led to three emerging situations which pose a challenge to a regional framework on climate change. First, bowing to mounting internal and external pressures from various groups for Australia and New Zealand to take the lead and assist indigenous people whose lands are disappearing underwater, New Zealand responded positively to the people of Tuvalu by agreeing to accept Tuvaluans who wish to settle in New Zealand.

Second, Australia also responded by taking a regional approach to the issue by promising funding to countries in the region to assist them design strategies to deal with climate change.<sup>28</sup> It has even provided seed funding for REDD (Reduced Emissions from Deforestation and Degradation) projects in the region.

Third, Papua New Guinea has responded to the plight of the Carterets by providing funding to relevant government agencies to develop a strategy to relocate the people on the main island of Bougainville. Papua New Guinea has also been actively championing a new agenda for post 2012 Kyoto Protocol - REDD. This agenda adopted by the 11 UNFCCC Conference of Parties in 2005 and reaffirmed at COP 13 in Bali, in 2007<sup>29</sup> provides a new dimension to climate change discussions. In simple terms, REDD to Papua New Guinea is about forest conservation, protection and rehabilitation. Over the last couple of years, Papua New Guinea has been trotting the world promoting the concept of REDD because of its vast forest resources and those of the Coalition of Rainforest Nations. Some may argue that REDD has distracted Papua New Guinea's focus and leadership in the South Pacific region especially when most of the South Pacific countries are connected by the sea.

The approach taken by New Zealand, Australia and Papua New Guinea which are major players in the region reveals the disparity in approaches at the region level. It is clear that there is incoherency of approaches to climate change in the South Pacific region. This may inhibit the ability of the region to take a single regional approach to climate change. Such a situation in the South Pacific, Garnaut warns, would only contribute to hindering multilateral and regional efforts in securing "a more ambitious post-Kyoto framework."<sup>30</sup>

## **Key Challenges**

There is no doubt that indigenous peoples of the South Pacific face the real threat of climate change and that their very existence is dependent on innovative policy and legal imperatives both at the domestic and regional level. The regional response to climate

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<sup>28</sup> Garnaut, R, Garnaut Climate Change Review: Interim Report to the Commonwealth, State and Territory Governments of Australia (Government of Australia, 2008).

<sup>29</sup> It's not possible to discuss in detail the concept of REDD here except to highlight the point that it seems to have distracted Papua New Guinea and Australia away from the practical issues of climate change in the region.

<sup>30</sup> Note 28, *supra*, at 38.

change is sporadic. Two immediate responses are imperative. First and foremost is an integrated regional action strategy on climate change providing the roadmap for dealing with climate change. And second, an integrated climate change policy and regulatory framework is required at the domestic level to deal with specific climate change needs.

One of the key recommendations of the 2007/2008 UNDP Report is for countries to adopt a multilateral framework for avoiding climate change post 2012 Kyoto Protocol. At the regional level, South Pacific countries must take concrete steps in designing an integrated regional framework on climate change to deal with its indigenous people post 2012. The South Pacific countries have shown in the past that they are capable of working together in dealing with regional issues such as fishing, pollution and environment conservation.<sup>31</sup> It is important that they also start making a concerted effort in developing this regional framework so that they are adequately prepared to share each other's problems pertaining to climate change.

A comprehensive and integrated regulatory framework which encompasses climate change, poverty reduction, health, agriculture and food security and sustainable development is imperative. The future of indigenous people as a special group of people with a unique culture from a particular area of the South Pacific needs to be protected. The evacuation of indigenous people, their new location, culture, food crops, cultural infusion and future needs must be addressed at the regional level and supported by national governments.<sup>32</sup>

The South Pacific as a region lacks the human and technical capacity and the financial resources to undertake this exercise. To enable the South Pacific countries to develop a regional framework on climate change they will require technical, funding and other support from their developed country partners Australia and New Zealand and other developed countries and multilateral organizations.

The response of governments at the domestic level is incoherent. The urgency to deal with issues of climate change is apparent but approaches to dealing with these issues are sporadic. At the policy and legal front, South Pacific island countries are having difficulty framing their regulatory framework as a prerequisite to the implementation of CDM project under the Kyoto Protocol.

To actively participate in CDM projects under the auspices of Article 12 of the Kyoto Protocol, member countries are required to do a number of things. Basically, they must identify a Designated National Authority and establish a National Clean Development Mechanism Authority to initiate and monitor CDM projects. The two basic CDM project types that South Pacific countries will be eligible for are: energy sector related projects

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<sup>31</sup> These are reflected in a number of treaties. For example, South Pacific Forum Fisheries Agency Convention 1979 relating to the management of tuna and other fishery resources; Convention on the Conservation of Nature in the South Pacific 1976 promoting protected areas; and the Convention to Ban the Importation into the Forum Island Countries of Hazardous Wastes and Radioactive Wastes and to control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific 1995.

<sup>32</sup> See n21, supra.

focused on emission reductions and avoidance of green house gases and natural environment sector which is focused on green house gases absorption and storage (carbon sinks).

The establishment of an institutional framework, supported by policy and law has been painstakingly slow for South Pacific countries. Big countries such as Papua New Guinea which should have taken the lead in this matter, has been struggling to adopt a climate change policy and law for over five years now.<sup>33</sup> The absence of an institutional and regulatory framework places indigenous people in a very precarious position.

A CDM project or any new mechanism post 2012 in the South Pacific will inevitably involve indigenous people. Such projects will affect their traditional land, environment and social well being. Without a formal climate change policy and law, indigenous people will have difficulty actively engaging in climate change projects. Some of the pertinent issues that will arise with any climate change project include:

- Ownership (project, land, security, etc);
- Technology transfer;
- Capacity building;
- Revenue generation;
- Foreign exchange generation;
- Resettlement of displaced populations;
- Agriculture and food security;
- Environmental benefits; and
- Economic benefits.

A CDM or post 2012 project will undoubtedly be located on traditional land. If so, how will indigenous people be involved in the project? How would they guarantee project security? How will they benefit in the project? What sort of benefits will be offered to them? How will the project generate sustainable income for the community? Will there be technology transfer? If so, how will be community benefit from this technology? How will the project lead to better health, education and living standards?

The above issues must be considered together with the main climate change issues identified by the 2007/2008 Human Development Report and the pressing human development problems of the South Pacific countries. These can be appropriately dealt with by an integrated national policy and legal framework. A comprehensive national climate change policy supported by law should clarify these issues and provide action plans that must result in tangible benefits for the indigenous people. Such a policy and law will only work if they are framed in close partnership with people who are directly affected – the indigenous people.

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<sup>33</sup> See discussions by Saulei, S and Genolagani, J, “Carbon Trading Opportunity” paper presented at the Divine Word University (Papua New Guinea) Conference – Papua New Guinea’s Prospect for Sustainable Development (Madang, 14-17 August, 2007).

## Conclusion

The picture is clear – indigenous people of the South Pacific are affected by the negative impacts of climate change. Already people in Tuvalu, Vanuatu, Papua New Guinea and Kiribati have been displaced by rising sea level caused by climate change. Many of their relatives and friends will follow them in the not too distant future.

Indigenous people are not only confronted by poverty, health problems, low literacy, inaccessibility to better education and government services, but also land loss and scarcity, food insecurity, poor health, decimation of culture, and displacement of population caused by the effects of climate change.

Indigenous people of the South Pacific need immediate action by their governments at the domestic level and partner countries at the regional level to adopt a climate change strategy to safeguard their interests and protect their future. Piecemeal approaches by individual governments will not work as pointed out by the UNDP in its 2007/2008 Human Development Report.<sup>34</sup> The indigenous people of the South Pacific are clearly vulnerable to the negative impacts of climate change. A stronger regional approach to climate change embodied in a regional framework and an effective program of action is required to safeguard the lives and interests of the 9.5 million indigenous people of the South Pacific.

National climate change policies and laws which must be holistic in character are also imperative to protect indigenous people, their land, economies and cultures. Where regional action is lacking, national governments must take a proactive role in addressing the impacts of climate change at the domestic level. The impacts of climate change is already present and delay by governments in adopting national climate change measures only increases the predicament of indigenous people.

South Pacific countries need technical, financial and other support from their developed country partners and multilateral organizations in designing workable and achievable national climate change regulatory frameworks and a regional strategy on climate change. Countries and indigenous people in the South Pacific face a huge challenge in sustaining their land, lives and identities in the long term. A long term holistic strategy which spreads across geographical, socio-political and legal borders may provide the solution to the future of South Pacific indigenous peoples and countries.

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<sup>34</sup> Supra, n17.

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