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Globalization and the Politics of Indigeneity

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Biography

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Abstract

Indigenous peoples inevitably associate globalization with imperial expansion and the colonization of their territories. One associated scholarly view is that globalization's focus on capital accumulation sets aside indigenous cultural priorities to undermine self-determining authority over lands and resources (Fenelon and Hall, 2008; Friedman, 1999; Kelsey 2005a; 2005b; Stewart-Harawira, 2005). Alternatively, globalization is an ambiguous paradox also providing significant benefits to indigenous peoples. In two very different Pacific countries, Fiji and New Zealand, the globalization of political and jurisprudential thought on the rights of indigeneity provides a significant counter to state assertions of absolute sovereignty. Globalization creates economic opportunities to reduce indigenous dependence on the state and in its contemporary expression is less significant than domestic factors in inhibiting indigenous aspirations.

KEYWORDS: Sovereignty, Indigeneity, Globalization

Introduction

Indigenous peoples inevitably associate globalization with imperial expansion and the colonization of their territories. Globalization is often positioned, in scholarly discourse, as continuing to oppress and marginalize. Its focus on capital accumulation apparently sets aside indigenous cultural priorities to undermine self-determining authority over lands and resources (Fenelon and Hall, 2008; Friedman, 1999; Kelsey 2005a; 2005b; Stewart-Harawira, 2005). While these perspectives are well argued, there are alternative possibilities that make globalization an ambiguous paradox rather than an always and necessarily negative phenomenon. In two very different Pacific countries, Fiji and New Zealand, it is clear that it is domestic politics that principally constrain indigenous aspirations. The globalization of political and jurisprudential thought on the rights of indigeneity is, in fact, a significant counter to state assertions of absolute sovereignty, as are the economic opportunities that globalization creates to reduce indigenous dependence on the state.

The relationship between economic development and indigenous self-determination makes the distribution of sovereign authority an outcome of extra-state economic and political alliances. When states try to assert authority over the wishes of indigenous communities, one sees that it is not globalization *per se* that affronts the rights of indigenous peoples, but its regulation by prejudice, historical legacy and state claims to overriding sovereignty.

Increasingly, globalization is creating new space for worldwide indigenous political activism and co-operation. Indigeneity's growing influence within the United Nations has heightened international scrutiny of colonial and assimilationist conceptions of citizenship. Developments in international law provide a principled framework for thinking about both the possibilities and limits to the rights of indigenous peoples in post-colonial societies. The paper explains that this remains even as the United Nation's *Declaration on the Rights of Indigenous Peoples* (2007) restricts the rights of indigeneity to minority, but not newly de-

colonized populations, which deprives Fiji of the same recourse to international law that has helped indigenous peoples in New Zealand re-assert claims to some share of a re-configured relative and relational post-colonial national sovereignty.

Globalization

Globalization is a political paradox, an ‘ambiguous’ concern (MacDonald and Muldoon 2006, p. 209), evoking sharply conflicting assessments of opportunity on the one hand, and neo-colonial injustice on the other. Globalization provided the economic rationale for imperial expansion and for colonialism’s sustained unjust engagement with indigenous societies. Kelsey (2005a; 2005b) and Stewart-Harawira (2005) argue that contemporary globalization, with its emphasis on rapid capitalist expansion, inevitably sets indigenous cultural priorities aside to make colonization a continuing phenomenon. Fenelon and Hall (2008) suggest that indigenous peoples, “by their very continued existence... pose a major challenge to neoliberal capitalism on the ground, politically and ideologically” (p. 1872), while Lauderdale (2008) proposes that globalization fosters “‘cultural assimilation’ to inhibit local and global democracy” (p. 1837). According to Friedman (1997), “liberation from one form of oppression [colonialism] can lead to another integrative process and new forms of class differentiation” (p. 1) to foster “socio-economic depression and further cultural suppression” (Fenelon and Hall 2008, 1874).

For Stewart-Harawira (2005, p. 179), traditional indigenous societies are destabilized by the “co-optation of tribal elites within a Western paradigm of corporatisation and commodification.” Similarly, in New Zealand, Friedman (1999, p. 9) objects to a perceived Maori tribal “movement from cultural identity to tribal property” focused on “genealogical rights to means of production.” These arguments juxtapose material accumulation with cultural identity as incompatible alternatives. Modern colonial practices in parts of Africa, Asia, and

Latin America provide supporting evidence, and indigenous experiences have sometimes been co-opted into wider non-indigenous political campaigns of resistance.

More broadly, indigenous peoples are generally not “interested in reforming the world [capitalist] system. They are more interested in autonomy and collective determination” (Lauderale 2008, p. 1837). The salient point, then, becomes a deeper questioning of how engagement with international economic and political orders may enhance opportunities for autonomy, prosperity, and collective self-determination. Specifically, the recent developments in international law and politics that globalization has fostered emphasize the relative and relational autonomy that indigenous peoples seek over their traditional resources and provide context for indigenous claims to collective development. Sovereignty transcends national constitutional and political arrangements because it is continually re-shaped by international political and economic factors that, at the very least, privilege the idea that the state is merely the agent of the people’s sovereignty, rather than sovereign itself. These developments also show the influence of domestic political considerations, rather than globalization, in restraining indigenous attempts to re-configure sovereignty as a shared expression of political authority.

The United Nations’ *Declaration on the Rights of Indigenous Peoples*

The *Declaration on the Rights of Indigenous Peoples* “sets out the individual and collective rights of the world’s 370 million native peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue development in keeping with their own needs and aspirations” (United Nations, 2007). It is the culmination of more than 50 years’ work on the development of international legal instruments to contextualize, codify and articulate a body of rights properly belonging to indigenous peoples. The International Labor Organization’s *Convention Concerning the Protection and Integration of Indigenous and other Tribal or Semi-Tribal Populations in Independent*

Countries (No. 107) was adopted in 1957. In 1989, its Convention No. 169 on Indigenous and Tribal Peoples was developed as “both a reflection of the normative consensus concerning the content of indigenous peoples’ rights under international law and a key catalyst of that consensus” (Rodriguez-Pinero, 2005, p. 7).

The *International Covenant on Civil and Political Rights* (1966) has addressed matters of cultural integrity, including indigenous rights to political participation, self-government and land, resources, and family. *The International Convention on the Elimination of All Forms of Racial Discrimination* (1965) provides similar protections, while the *International Covenant on Economic, Social and Cultural Rights* (1966) is concerned with food and water, housing, education, health, and the right “to benefit from scientific, literary or artistic production” (Anaya 2008, 12). The Conventions on *Biological Diversity* (1993) and the *Rights of the Child* (1989), along with the work of the United Nations Committees on the Elimination of Discrimination against Women, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the *Vienna Declaration on Human Rights* (1993) add to a growing international discourse providing normative authority to indigenous people’s domestic claims against the state.

The Declaration supplements common citizenship rights by recognizing that for indigenous peoples, “the right to lands, territories and natural resources is the basis for their collective survival and thus inextricably linked to their right to self-determination” (Daes 2008, 8). The Declaration must, however, be read as non-binding and in the context of existing human rights obligations, which are reasserted and codified to provide a framework for political recognition (United Nations, 2007). The Declaration reflects a gradual movement beyond international law’s traditional focus on the state alone to acknowledge indigeneity as a legitimate focus of political identity. Indeed:

The United Nations system was meant to be a system in which states were responsive to the needs of people and where people—as individuals and as part of

groups—had a separate and legitimate role as part of the international community (McCorquodale, 2006, p. 121).

For over 50 years, then, evolving international discourses have positioned the United Nations as a key participant in indigenous affairs, helping to bring international cohesion to their political aspirations. Indeed, Muehlebach (2001) proposes that “no other global forum has ever enabled such a large group of activists and their organizations to fully articulate their problems on a regular... basis and to voice their opinion on how these problems should be solved (p. 415).” Xanthaki (2008) argues that:

Although indigenous peoples have not been part of the creation of international law, they have refused to stand on its periphery and have been determined to become equal partners in its evolution. In a relatively short time they have managed to get their voices heard, have shifted attitudes and initiated a wave of intense international support for their claims (p. 2).

Yet, even as it stands apart from the philosophical and ideological conflicts that states must mediate, the United Nations is also a site “where intergovernmental efforts attempt to rein in indigeneity” (Soguk 2007, p. 16). It was, for example, an overstatement of position for Australia, Canada, New Zealand, and the United States of America to vote against the Declaration on the grounds that an indigenous right to self-determination:

could be misrepresented as conferring a unilateral right of self-determination and possible secession upon a specific subset of the national populace, thus threatening the political unity, territorial integrity and the stability of existing UN Member States (Banks, 2006).

The focus on secession is inconsistent with normative international understandings of self-determination that indigenous peoples have themselves adopted. As Japan pointed out, the Declaration, in fact, affirmed the position that indigenous communities could not appeal to the right to self-determination to impair the political unity or territorial integrity of a state (United Nations 2007). Or, as Young (2004) suggests, “self-determination does not imply independence, but rather that peoples dwell together within political institutions that minimise domination among peoples (p. 188).”

Sovereignty's relational and relative character precludes indigenous assertions of self-determination in isolation from wider economic and political considerations. Therefore, alliances of common aspiration become preliminary to substantive self-determination involving "relative yet relational autonomy between peoples, each of which is autonomous in their jurisdiction" (Maaka and Fleras 2000, p. 97). A constant tension of both principle and politics allows indigenous peoples to assert a shared national sovereignty, with occasional and sometimes significant success. This is because:

Public power is an expression of a political relationship, it would be a mistake to assume that sovereignty resides in a specific locus, whether that be the king, the people, or an institution such as parliament. Sovereignty ultimately inheres in the form which the political relationship takes (Loughlin 2003, p. 55).

Yet, for the New Zealand Government, the Declaration established two classes of citizenship with one group being accorded rights "that take precedence over those of others." New Zealand "assumed that [under the Declaration] the rights of all individuals, which are enshrined in international law, are a secondary consideration" (Pearson, 2006). New Zealand instead proposed, but did not define, "a Declaration that can become a tangible and on-going standard of achievement" (Pearson, 2006).

State assumptions of absolute and indivisible authority explain New Zealand's insistence that Articles 10 and 32 of the Declaration were incompatible with the state's "constitutional and legal arrangements, the Treaty of Waitangi and the principle of governing for the good of all our citizens" (Banks, 2007) because they provide for "free, prior and informed" indigenous consent to "relocation from their lands or territories." The Articles read that:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return (*United Nations Declaration on the Rights of Indigenous Peoples* Article 10).

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources (*United Nations Declaration on the Rights of Indigenous Peoples* Article 32: 1).

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources (*United Nations Declaration on the Rights of Indigenous Peoples* Article 32: 2).

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact (*United Nations Declaration on the Rights of Indigenous Peoples* Article 32: 3).

Australia's objection was that "free, prior and informed consent" would provide a right of veto to "legitimate decisions of a democratic and representative government" (Hill 2007). For indigenous Australians, the concept of representative government remains elusive and, rather than constituting a right of veto, the Articles balance political relationships by checking the absolute right of a Parliament, unrepresentative of indigenous perspectives, to make laws to over ride a considered indigenous position.

The argument that a right of 'veto' establishes additional citizenship rights for just one group of people ought to be evaluated with reference to liberalism's capacity to recognize group rights as preliminary to the protection of individual freedom. Similarly, "global diversity is limited when it is built within the constraints of modern nation-states, which often view diversity as deviance if it does not conform to modern norms and definitions" (Lauderale 2008, p. 1836). Individual citizenship alone is insufficient to secure the legitimate cultural and economic rights of indigenous peoples. Group rights are emphasized because cultural rights can only be enjoyed in community with others and because economic deprivation is an outcome of injustices occasioned, principally, against groups of people not individuals. Where, for example, colonial practices have compromised the foundational liberal principle of unencumbered property rights it seems a reasonable concession for the modern state to seek 'free, prior, and informed consent' to developments over traditional

lands, especially where continuing ownership has been recognized through a fair judicial process.

In a departure from its own well-established practice, New Zealand, objected to the Declaration's requirement to provide redress for land acquired without the consent of the indigenous peoples. New Zealand's own statement on the Declaration acknowledged that it had already settled claims over half the country's land mass (Banks, 2007), but Lightfoot's (2008) conditions for securing indigenous rights illustrate what New Zealand perhaps feared:

Securing indigenous rights means that several critical changes in the international discourse must occur, including an alteration of the liberal international Westphalian system of state sovereignty toward a postliberal, plurinational sovereignty system that includes a separate nation-to-nation and consent-based shared sovereignty arrangement between states and indigenous peoples (p. 83).

The Declaration checked state power by helping to frame public discourses of resistance. In Australia, the Rudd Government (2007–2010) reversed its predecessor's opposition to the Declaration as a mark of “respect for Indigenous peoples” (Macklin, 2009), but without responding in any specific way to the reservations the previous government used to explain its opposition. In New Zealand, the Key Government (2008–present) has taken a similar position, indicative of a broadening perspective on indigenous rights, largely by virtue of the Maori party's presence in that country's coalition government. In New Zealand, the bounds of possibility have been extended, but perhaps without real governmental thought on just how far it is willing to see those new bounds of possibility tested. Indeed, the “Standards concerning indigenous rights are still fluid; the contours of international law are constantly stretched” (Xanthaki 2008, p. 282), but the United Nations remains the only truly authoritative non-state body for the presentation and testing of indigenous claims in relative freedom from the populist and highly subjective prejudices that can contextualize domestic discussions.

Globalization and Indigenous Development

Contemporary indigenous development relies on political and economic alliances with the ultimate goal of eliminating obstacles to “human freedom” (Sen 1999, p. 12). In other words, economic development is integral to meaningful indigenous sovereignty and “requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systemic social deprivation, neglect of public facilities as well as intolerance or overactivity of repressive states” (Sen 1999, p. 3). Globalization’s imperial phase and its continuing legacy explain many of the contemporary barriers to indigenous freedom. However, at the same time, globalization also ensures that the modern nation state is only ever “partially sovereign” (Ingram 2003, p. 387).

In globalization’s current phase of capital expansion and the universalization of human rights, opportunities for indigenous peoples to reclaim personal agency are increasing and the barriers of prejudice and history that do remain are largely due to domestic considerations. Globalization *per se* does not harm indigenous peoples; rather it is the regulation of its conduct and broader domestic public policy that exclude indigenous peoples from economic development that better explains their economic and political vulnerability. Consequently, there is significant political scope for indigenous peoples to examine international legal instruments to support their domestic claims on the nation state.

A contradictory perspective that Rata (2003) proposes in New Zealand is that Maori “tribal capitalism” illustrates ways in which “a local movement can become reorganized into the global system” to create “doubly oppressive social and economic structures: the oppressive political and social relations of traditional societies in conjunction with the exploitative economic relations inherent to capitalism (p. 44).” Rata’s concern arises as tribes work out governance and administrative arrangements that balance the democratic expectations of governments and increasingly their own memberships, with ideological

resistance to democracy's association with neo-colonialism. Expectations of internal participatory democracy are advanced by increasing tribal wealth that, in turn, strengthens members' tribal association and identity. In this way, tribal sovereignty shifts from traditional elites to become more evenly shared and provide a wider distribution of collective wealth. Where safeguards against elite capture are in place, tribal capitalism in fact demonstrates an innovative capacity to protect group identity, especially through language and culture, and to use collective resources in new and evolving contexts.

Modern economic globalization does not necessarily set indigenous claims aside; rather it provides new contexts for their expression, new constraints on their realization, and new avenues for their pursuit. Ngai Tahu, for example, is a New Zealand tribe of approximately 39,000 members with an asset base in excess of \$500 million. It is governed by a broadly representative Runanga (council) selected through the direct participation of tribal members. Ngai Tahu's wealth is largely derived from the development and utilization of traditional resources through extensive property holdings, tourism, and fisheries. Commercial profits are used to support cultural and educational aspirations as well as to meet social imperatives (Te Runanga o Ngai Tahu Annual Report, 2008).

The Maori population's increasing economic significance is enhancing indigenous authority *vis-à-vis* the state, while national sovereignty's evolving character is diminishing the state's capacity to dominate. Conversely, marginalization continues where intellectual and political discourses position indigenous peoples as inevitable victims, always and necessarily unable to benefit, in their own terms, from engagement in the global economy.

The tribe's long-term focus positions it to exploit capitalist modes of economic arrangement. The tribe need not focus solely on the maximum return to shareholders in the shortest possible time. Its permanency, trans-generational investment horizon, and constant geo-political attachment to its people give it incomparable stability. Indigenous peoples can

reasonably expect to participate in economic development on their own terms and to avoid confinement “to victimhood” (MacDonald and Muldoon 2006, p. 212) by alternative ideological positions.

Rather than constituting resistance to globalization (Fenelon and Hall 2008, p. 1869), the collective management of tribal resources is as old as the tribe itself and provides ways of conducting economic relationships to ensure the prevalence of cultural preferences in property ownership. More broadly, while neo-liberalism’s minimilization of the claims of the poor and marginalized has disproportionate impact on indigenous peoples, it remains that it was neo-liberal public sector management that, from the 1980s onwards, created space for substantive Maori involvement in the public policy process (O’Sullivan, 2007). In environments that otherwise privilege the individual over the group, tribal authorities play significant roles in public policy development and delivery (O’Sullivan, 2007). The introduction of ‘choice’ to service delivery established opportunities for indigenous organizations to engage in primary health care and social service delivery according to their own cultural preferences. Similarly, there was an expansion in the number of schools teaching in the Maori language and to some extent according to preferred Maori pedagogies. The prevailing Maori philosophy was that “Maori should formulate policies for Maori and the role of the Crown should be to ensure that those policies were integrated into a workable state framework” (Durie 2003, p. 304). Maori were equally determined in their view that “Maori progress, whether in commerce, education or science, could not be accomplished without taking cognisance of Maori values and the realities of modern Maori experience” (Durie 2003, p. 304). An absolute congruence between cultural and economic imperatives emerged on the grounds that cultural security is available only as a function of economic security.

The Foreshore and Seabed Act 2004 and Qoliqoli Bill 2004

In a recent graphic illustration of how shared sovereignty is more likely to be constrained by domestic factors, the New Zealand parliament overrode claims to Maori customary title to the foreshore and seabed by vesting title solely in the Crown. The *Foreshore and Seabed Act 2004* was enacted after a tribal group, Ngati Apa, was refused a commercial mussel farming license over a customarily used area of foreshore and seabed. The point of legal contention was whether a tribe had a legal right to ask a Court to confirm customary title. The ensuing legal and political debates were protracted, complicated and controversial with an alarmist government, encouraged by populist opposition parties, promoting public suspicion that one tribe's customary title would necessarily deny all other citizens access to the entire coastline. Although this was never the Ngati Apa intention, public suspicion created a context for the Crown to contest the incremental re-casting of sovereignty by asserting its own absolute authority. The consequent Maori appeal to the United Nations to declare the *Foreshore and Seabed Act* incompatible with international norms of human rights and justice provided a contrasting illustration of the international moral constraints on domestic state sovereignty.

The United Nations Committee on the Elimination of Racial Discrimination found that the legislation breached of the *Convention on the Elimination of Racial Discrimination* (2005), and urged negotiations between the state and Maori to “seek ways of mitigating its discriminatory effects” (United Nations Committee on the Elimination of All Forms of Racial Discrimination, 2007). The Committee's findings and recommendations were affirmed by the United Nations Special Rapporteur on the Fundamental Freedoms and Human Rights of Indigenous Peoples, and as part of their coalition government agreement in 2007, the National and Maori parties agreed to a review of the Act, which ultimately recommended repeal of the legislation. Thus, even a settled political order that guarantees relatively high levels of indigenous political participation is not immune from allowing populist ideology to

override a universally accepted human right. Significantly in this instance, domestic pressures, not globalization, prevented Maori entry into a commercial market. The political disagreement between Maori and the Crown showed that Maori re-claim authority over their natural resources to support cultural, environmental, and spiritual aspirations, but their claims also have an unapologetic economic purpose. Guardianship or stewardship, rather than “ownership,” of the foreshore and seabed is not, for example, as obviously “opposed to monetary values... established by global capitalism” as Fenelon and Hall (2008, p. 1884) suggest.

However, at the same time, the United Nations’ restrictive understanding of indigeneity as belonging only to minority native populations left Fiji without recourse to an important instrument in international law to help it resolve domestic disagreement over the Qarase Government’s (2002-2006) *Qoliqoli Bill 2006*, which was one of two proposed Acts of Parliament to precipitate that year’s military coup. The *Qoliqoli Bill* was similarly concerned with restoring indigenous rights to the foreshore and the policy issues it attempted to address paralleled those in New Zealand. The two parliamentary Bills, one passed, and the other not, provide instructive contrast on indigenous rights to coastal resources. Lal (2009) explains that the Fijian legislation was intended

to transfer ‘all proprietary rights to and interests in qoliqoli [foreshore] areas within Fiji fisheries waters [and] vest them in the qoliqoli owners.’ By this process, the marine area from the foreshore to the high water mark would be declared ‘native reserves’, for the unfettered use and enjoyment of the resource owners (p. 24).

A key difference with New Zealand was that Maori never sought “unfettered use” of the resource. Pragmatic acceptance of the rights of others as well as economic considerations highlighted the practical limits that relative and relational political authority imposes on the claims that indigeneity can realistically make. In spite of military opposition being given civil credence by the reservations of the Fijian Law Society and national tourism industry, Qarase’s Soqosoqo Duavata ni Lewenivanua (SDP) party still attracted 80% of the

indigenous vote at the 2006 election. After campaigning on the Bill, the Prime Minister claimed a mandate to enact it that, in turn, established the context for the removal of his government. The tourism industry objected on reasoned and obviously self-interested economic grounds. However, the Law Society observed that in transferring ownership, as distinct from *mana whenua* [guardianship], which Maori claimed in New Zealand, “the state is in fact transferring to them the state’s rights of sovereignty within these qoliqoli areas. The effect of this is that the qoliqoli could become autonomous areas whereby the owners of the qoliqoli could implement their own rules outside the regulation and control of the State.” (Fijian Law Society, 2006) In other words, indigenous sovereign authority would be absolute; and unencumbered by the needs, rights, and interests of other citizens.

Fiji

Fiji’s indigenous population remains disadvantaged largely by domestic rather than international constraints on political authority. An exception to this general rule is the exclusion of indigenous Fijians from the scope of the UN *Declaration on the Rights of Indigenous Peoples* (because they are not a minority) discussed later in the article.

The military reaction to the *Qoliqoli Bill* confirmed that Fijian sovereignty is a fractured and unstable construct increasingly distant from the people. The ensuing coup illustrated the importance of domestic, rather than international factors, in determining indigenous Fijian access to a share in domestic political authority. The self-appointed Prime Minister Frank Bainimarama’s paradoxical assumption that he alone is competent to define the multi-racial equality that the military should impose makes no concession to people’s general wish to participate in national governance. Nor does it defer in any way to international norms of justice, which have become all the more important as the country’s own Human Rights Commission has taken a partisan position in support of the military intervention, and

proposed that the military assume an ongoing role of political oversight once an elected parliament is re-constituted.

Norton's (2009) concession to a military role in a new ordered system of government would similarly formalize Bainimarama's claim to a military duty to exercise 'guardianship' of the polity by overseeing parliamentary government. This is especially so as Norton leaves unconsidered the question of to whom or what the military should account, and positions it over the Great Council of Chiefs (GCC) as the site where the indigenous "conviction of their entitlement to power" (p. 103) is constitutionally protected.

However, to show the contrasting perspectives in contemporary Fijian politics, the purpose of undermining the GCC is to "realize the army commander's view that [it] should primarily be an instrument of government, insulated from electoral and parliamentary politics, especially the influence of Fijian nationalist groups" (Norton 2009, p.112). As Draunidalo (2009) points out, there are innumerable lessons from Latin America and elsewhere alerting one to the imprudence of such an idea. Any kind of political oversight, "external to the people" is a formal transfer of sovereignty from the polity, which weakens systemic capacity to institutionalize accountable checks and balances on the exercise of sovereignty. Political authority would then become the benevolent gift of a distant force answerable to no one and democracy itself would fit the fragile description proposed by the *Fiji Daily Post* (21 April 2007) shortly after the coup in 2006:

Democracy remains an article of faith—always. That is, it stands by the faith citizens have in themselves to arrive at proper decisions affecting their common future, and the faith they have in each other respecting that faith and its processes and outcomes. This renders democracy precarious because anyone at any time with sufficient resources can knock it over and down. All it takes is "bad faith." That is, anyone can destroy democracy by simply losing faith in what it is by its very nature.

The resurrection of Fijian civil society and a free and independent press are essential precursors to accountable and democratic government. In the absence of a Parliament and independent judiciary, interfering with civic and media freedoms removes the only remaining

check on executive power. Civil freedoms are fundamental to the expression and protection of human rights and contribute to stable extra-parliamentary constraints on political power. Their vulnerability is a key factor in the nation's weak public sovereignty, compromised by normative political values that accept "fundamental rules and institutions ... up to a point, but not if they threaten vested interests too directly or they deliver the 'wrong' outcome" (Firth and Fraenkel 2007, p. xxi).

Dissonance between the Fijian people and national sovereignty is not only an outcome of three coups (1987 and 2006) and a putsch (2000), but was evident in 2006, as the Qarase Government was re-elected according to due constitutional process, but with "little sense of the electorate's ownership of the election as a genuinely national contest." Or as Alley (2010) continues: "the contest was an engagement more to do with holding the line by electing what was mistrusted least—the communally based party devil that voters knew—rather than an exercise endorsing or mandating a policy programme taking the country into the future (p. 147)."

Even as the political developments that precipitated the coup were played out in 2006, Bainimarama (2009) remarked that "Qarase is trying to weaken the army by trying to remove me ... If he succeeds there will be no one to monitor them, and imagine how corrupt it is going to be." The government responded with the traditional Westminster democratic view that the military had no role as constitutional or moral guardian of the state. Its relationship with the government of the day was necessarily subservient. However, Bainimarama was ultimately able to position sovereignty beyond the Fijian people. The Chief Justice's partisan political alignment with the military regime and the subsequent dismissal of politically neutral judges confirmed that there was to be no wider domestic check on the military. As self-appointed guardian of the Constitution, the military left itself with physical power over

domestic affairs but with no capacity to form the kinds of international relationships that secure domestic sovereignty as a meaningful political construct.

Fijian politics remains ambivalent toward sovereignty's relative and relational character, and the Fijian Military Force's supremacy over parliament, the presidency, judiciary and traditional structures such as the GCC provide further explanation of why "Fiji has yet to build a nation congruent with its state and still lacks a sovereign, collective, unified people whose will the state expresses and inacts" (Kelly & Kaplan 2009, p. 184). Fiji lacks the institutional means to establish political consensus, which is preliminary to development and to raising the standard of living of the 34% of Fijians living below the poverty line. The institutional foundations for meaningful national sovereignty are not present and the military regimes' 2008 "'Budget of Hope' is based on a series of improbable assumptions: political stability, the recovery of key sectors [sugar, construction, and retail] of the economy from the effects of the 2006 coup, as well as the recovery of the tourism industry" (Prasad and Narayan, 2008, p. 5).

Indigenous Fijians own 84% of the country's land, form the greater part of the population, and have enjoyed guaranteed parliamentary majorities. Yet, in contrast, New Zealand Maori have relatively higher levels of wealth, and since the 2006 coup, political influence, because they are able to exercise a more proportionate share of national sovereignty, in stable and secure economic and political environments, with access to the international economy. As the Fijian economy deteriorates, further pressure is placed on an aggressively nationalist politics of indigeneity to secure Fijian 'paramountcy' through political and economic privilege.

Fiji's contemporary unattractiveness to foreign investors diminishes opportunities for the development of export industries, thus there is great irony in Bainimarama's (cited in Ratuva, 2007, p. 36) observation during the 2006 election campaign that "if we don't act, this country is going to go to the dogs and no investor will want to come here." Fiji's highly regulated

marketing arrangements and export licensing regime further inhibit opportunities for export-led growth. Its fishing industry, which is integral to indigenous affirmative action policies, operates well below maximum sustainable levels (World Trade Organization, 2009).

Fiji's inward-looking politics is pre-occupied with power, without broadly developed perceptions of how, and to what end, power ought to be exercised. Fraenkel and Firth (2009, p. 6) argue that "the central question of Fiji politics since independence remains unresolved: Who should rule and for whom?" The three constitutions, three coups and putsch since independence, in 1975, have failed to resolve this foundational political question partly because of sustained Fijian incapacity to admit the relative and relational nature of sovereignty, its shaping by international considerations and its distribution within the domestic polity.

A more promising approach, privileging human rights over violent and intimidatory claims to political power, would be one that provides indigenous Fijians with international legal precepts on which to make claims on the state, while also recognizing the rights of others. Indigenous Fijians do not require protection from globalization, but access to the challenge it poses to the misuse of domestic sovereign authority.

The human rights principles underlying the United Nations *Declaration on the Rights of Indigenous Peoples* assume a stable liberal democratic political order where principled and ordered means are established for the distribution of power and authority. The balancing and mediating influence of the Declaration is a global one capable of significant contribution to working out the principled exercise of popular sovereignty in contemporary Fiji. In a conciliatory assessment of what the Declaration could mean for Fiji, if it could be drawn in to domestic politics, the indigenous Chief Executive of the national Citizen's Constitutional Forum, Akuila Yabaki (2008), comments that:

It recognizes our right to be different, and to act as an individual or as part of a community as we choose. It encourages participation in matters which affect us all

such as education, social welfare, health, environment and governance without discrimination. From it we should learn that multiculturalism is what makes us all part of the common heritage of mankind. We are all entitled to exercise and practice our beliefs, cultures and religions, and should not interfere in the rights of other people to do the same.

The Fijian experience highlights political and legal space for international legal instruments such as the Declaration to provide a framework for thinking about indigeneity's limits as well as its possibilities. The Declaration implies shared relational and relative national sovereignty:

In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society (*United Nations Declaration on the Rights of Indigenous Peoples* Article 46 (1)).

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity (*United Nations Declaration on the Rights of Indigenous Peoples* Article 2).

Indigeneity is an insightful theoretical construct for the study of contemporary Fijian politics simply because native Fijians cite first occupancy as a basis for their political claims. Fiji's distinct colonial history means that constitutional arrangements made in isolation from the relationship between colonial history and its contemporary legacy will always be unjust. Special efforts are required to bring a rights-based discourse to the Fijian construction of a fair and widely accepted national sovereignty. However, the United Nation's reductionist definition of indigenous peoples to include only those of minority status deprives international law and politics of an important avenue for rationalizing the limits to indigeneity in a society where post-colonial stability is elusive because questions about where indigenous power ought to lie in relation to that of more recent settlers remain sharply contested. Political incapacity to engage with global interests and opportunities then emerges

to compound indigenous peoples' limited access to global economic opportunities, as trade and diplomatic sanctions are imposed. Yet, for indigenous peoples in New Zealand, it is global alliances of common aspiration that best disperse domestic sovereignty.

Conclusion

Globalization accounts for the colonization of indigenous territories and its pursuit of capital expansion is sometimes allowed to override indigenous cultural imperatives. However, at the same time, in its contemporary phase, globalization provides indigenous peoples with recourse to international law and economic opportunities to strengthen their positions *vis-à-vis* the state in the quest for specific and proportionate shares in national sovereignty. Indigenous/state political relationships are distinguished by state reliance on domestic laws and political influence to counter indigenous claims to shared sovereignty, which is becoming increasingly relative and relational, rather than the absolute indivisible and incontestable domain of the state. Instruments of international law such as the United Nations *Declaration on the Rights of Indigenous Peoples* have become a site of tension between domestic authority and international norms of justice in New Zealand. At the same time, the Declaration's inapplicability to Fiji deprives that country of a potential framework for mediating ideas about power, authority, and their limits so that a relative and relational sovereignty can be developed. In short, far from being a neo-colonial constraint on indigenous political aspirations, globalization's opportunities make it an ambiguous political paradox.

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