

## Freedom of Information and Media Accountability in the Pacific: Case Studies of Fiji, Cook Islands and Papua New Guinea

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### Abstract

*Journalists have long been seen as taking a Fourth Estate role or being 'watchdogs' of the state. However, in order to fulfil this role, journalists need access to government documents and to be able to get information about governments activities. Therefore, freedom of information (FOI) legislation is necessary to enable the media to have access to state information. The implementation of FOI legislation has been slow in the Pacific, with the first such law due to be implemented in the Cook Islands in 2009. This paper examines media accountability systems and FOI legislation in the Cook Islands, Fiji and Papua New Guinea and compares them with Australia and New Zealand, which have FOI legislation since 1982.*

### Introduction

Freedom of speech, including both imparting and gathering information, is guaranteed under Article 19 of the 1948 Universal Declaration of Human Rights. The United Nations Educational, Scientific and Cultural Organisation (UNESCO) promotes freedom of expression and freedom of the press as a basic human right. The fundamental human right of FOI is a cornerstone of democracy, participation and good governance. The Commonwealth Human Rights Initiative (CHRI, n.d.) says, 'Holding information away from the public creates 'subjects' rather than 'citizens' and is a violation of their rights'. Unlike in the United States, many countries in the Pacific do not guarantee the right to information in their constitution. Even countries with longer histories of democracy such as Australia and New Zealand, have no guarantee of the right to information un-

der their constitution. Fiji, the Cook Islands, and Papua New Guinea are Commonwealth countries along with Australia and New Zealand, which therefore have rights and obligations under this initiative (Commonwealth Human Rights Initiative, n.d.).

The right of information implies the right to seek information, and also the duty to give, store and organise and make information easily available. The bodies working collaboratively in the Pacific region to encourage discussion of FOI principles and moves toward legislation include the Pacific Islands Forum along with the Commonwealth Human Rights Initiative, the Commonwealth Parliamentary Association, UNDP and the Pacific Centre for Public Integrity. Their combined objective is to support and provide advice on their work in this area and ensure close co-ordination is maintained.

### Need for Media Accountability Systems

Bertrand (2005) argues that journalists need to be accountable to the public in order to gain their support and thus be independent from financial and political pressures. He explains that media accountability should not be confused with self-regulation, which stems from the fear of legislation driven by the public's hostility. He distinguishes between media accountability and other types of regulation, saying it involves all three groups of press, profession and public. 'While regulation involves only political rulers and while self-regulation involves only the media industry, media accountability involves press, profession and public' (Bertrand, 2005). Media accountability systems, continues Bertrand, are essential for maintaining the freedom of the press because they build the esteem in which the public holds the press.

Press councils are the most common form of a media accountability system and their effectiveness is linked directly to freedom of information (Bertrand, 2005).

### Press Councils

Bertrand believes a press council 'brings together and represents the people who own the power to inform, those who possess the talent to perform and those who have the right to be informed' (Bertrand, 2005).

He finds it surprising that some Pacific Island nations which are still coming to terms with democracy are even considering press councils while a wealthy nation like France, which has a long history of democ-

racy, does not have one.

Bertrand (2005) says critics of press councils fear they will become 'statutory control machines' but says that this has never happened, and in fact the creation of voluntary press councils is 'a sign of democracy'.

Bertrand points out that although press councils are heavily criticised, their purpose is to improve the news media. He contends press councils need to focus on education of journalists and research on the news media.

Robie (2005) points out that education of journalists in the Pacific is essential if they are going to report with depth and insight, and thus contribute to the development of society. Bertrand says press councils should be encouraging other forms of media accountability systems, which can be diverse. Singh (2005) agrees, saying that self-regulatory media councils 'provide the best opportunity for the island media to carry out its watchdog function without undue influence from those who need to be watched the most – governments'.

Singh (2005) says attacking media standards or self-regulation systems has become fashionable for Pacific Island governments, which suggest the introduction of fines and jail sentences as a better option. Pacific governments have a history of seeking ways to gag the media. Although claiming to be democratic, they actually act autocratically, he argues.

### **The Pacific Plan**

The Pacific Plan was developed at the 2005 Pacific Islands Forum in Port Moresby. Australia, New Zealand, Papua New Guinea, Fiji and the Cook Islands are all members of this forum, which meets annually and is regarded as the region's premier political and economic policy organisation. The Pacific Plan (Pacific Islands Forum Secretariat, 2005) identified four pillars that focus on economic growth, sustainable development, good governance and security. As part of good governance, a strategic objective is to improve the transparency, accountability, equity and efficiency in the management and use of resources in the Pacific.

A major outcome of the 2005 Pacific Plan was the commissioning of Charmaine Rodrigues, former coordinator of the CHRI's Right to Information programme, to write a document called *The Information Disclosure Policy Toolkit* (IDP) (Rodrigues, C., personal correspondence with authors, 10 June 2008).

Rodrigues likens information to a public good like clean air and drinking water: 'It belongs not to the state, the government of the day or

civil servants, but to the public' (Rodrigues, 2008: 13).

The IDP identifies the important role that media have to play as an effective means of communicating key messages and information to the public, with radio and television being vital links to communicate information (Rodrigues, 2006: 16). Rodrigues reports that many MPs in the Pacific have raised concerns about how the media might use government information to report irresponsibly (Rodrigues, 2006: 49).

At the Pacific Workshop on FOI in 2005, seven Commonwealth Pacific Islands officials met to discuss development and democracy in Pacific societies, and endorsed a statement which recognised among other things, that:

A FOI system can help improve the level of public debate and media reporting in a country by making more facts available to the public, and therefore reducing the risk of debate and reporting being based mostly on rumours and unverifiable allegations (Commonwealth Parliamentary Association, 2005).

The statement set out 12 key issues highlighted by participants regarding the practical implications of entrenching FOI systems across the Pacific. It concluded that as a democratic country's ultimate sovereign institution, Parliament should remain the paramount oversight body in respect to the implementation of the FOI regime. Any FOI legislation it enacts should therefore require the institution(s) charged with implementing the law to report back to Parliament regularly.'

The statement recommended a variety of ways that this could be achieved, including establishing a specially created Information Commissioner's office, or using an existing institution such as an Ombudsman or Human Rights Commission. The workshop agreed that adopting FOI laws would only be the first part of entrenching the right to information and that effective implementation would be key. Committing to openness throughout government and public bodies would be the challenge, especially without provisions for adequate resources for improving record systems and public education.

### **Papua New Guinea**

Papua New Guinea (PNG) is the second largest island in the world with a population of more than 5.6 million. It has been an independent nation of the Commonwealth since 1975. Article 51 of the Constitution of the Independent State of Papua New Guinea states that every citizen has

the right of reasonable access to official documents, subject only to the need for such secrecy as is reasonably justifiable in a democratic society. Laws regarding qualified rights (Section 38) can restrict this section and provisions need to be made law by Parliament to establish procedures by which citizens may obtain ready access to official information.

In 1997, Transparency International Papua New Guinea (TIPNG) was established by a group of concerned citizens with the aim of combating corruption and promoting openness, honesty and accountability in public and private dealings (Transparency International (PNG) Inc, 2007). Part of a larger organisation established in 1993, Transparency International (TI), it is a non-profit, non-government organisation with over 90 affiliates worldwide. Rather than exposing individuals or companies, TI creates networks to pursue ideals at an international level that create civil societies free of corruption. According to its website TIPNG provides their position on matters through media releases, letters to the editor and position papers to government. It disseminates information about corruption issues to the wider public, including a quarterly newsletter to members and supporters. Although there is a constitutional right for FOI, there is no enabling legislation. In 1999, TIPNG with the support of the Media Council of Papua New Guinea drafted a FOI Bill for consideration.

There are three levels of government in PNG, national, provincial and local. There are 89 single-member electorates and 20 regional electorates coinciding with PNG's provinces. Each province is given grants from the national government to maintain their region and the Supreme Court, National Court, and local and village courts form the independent justice system (Pacific Forum Island Countries, 2005: 227).

Since PNG's independence in 1975, there have been sporadic political stabilities. The current Prime Minister Sir Michael Somare was the first confirmed Prime Minister in 1977. No prime minister has served a full five-year term and historically there has been a high turnover of members of Parliament in general elections. The high number of separate parties represented in Parliament suggests that there will always be a coalition in government. To date, no single party has won enough seats to form a government in its own right.

A National Policy on Information and Communication (NPIC) was developed in 1993 after talks began 15 years before in 1978. The policy, however, has become outdated since the growth of web technology. It was unanimously agreed to in 2004 that the policy required updating to give balance between government's expectations, commercial interests,

and the public's right to information. However, this review has yet to take place (Pacific Forum Island Countries, 2005).

According to the Informing Citizens report (Pacific Forum Island Countries, 2005), there are seven laws relating to the operation and licensing of media in PNG. All the mainstream media organisations are paying members of the PNG Media Council and are responsible for ensuring that they follow the guidelines set out in the General Code of Ethics. The Media Council also has a Broadcasting Code of Practice and was established in 1995 to replace the Press Council of Papua New Guinea, which was set up in 1985.

The three main objectives of the Media Council are:

- a. To strengthen and support the industry, to promote its viability and protect against government interference in the media;
- b. To provide training to journalists and editors;
- c. To fulfill a social obligation role, with emphasis on fighting high levels of corruption.

Investments provided by the British High Commission and the Media Council saw the establishment of the Independent Media Standards Committee (IMSC) to oversee the codes of ethics. There is no government or media representation on the IMSC, which consists of five members representing the legal sector and academia, women, church, and business. Letters of complaint are sent to the Media Council, which then refers the matter to the media organisation concerned. They then have 14 days to respond or else the matter is referred to the IMSC for adjudication. If the media is found to be in the wrong, then the media organisation has to make a written statement to that effect in the media.

The current members of the council include newspapers as well as radio and television stations. According to Hreiwazi (2004), the council was originally set up to protect the interest of the media organisations.

However, published articles critical of government have pushed calls for additional media regulation through licensing and deterrents. This constant tension between media and government has contributed to the lack of momentum in passing the FOI Bill.

Although there is a media unit in Parliament used as a first point of contact to access the prime minister or other senior government ministers, there is no national communication policy.

According to the Informing Citizens Report (Pacific Forum Island Countries, 2005) priority for government is political stability, followed by export-driven policy, which is linked to creating employment and encouraging people to work their land. HIV and AIDS, and law and order are

also major concerns and although communication of information is vital, it is overlooked, according to a Pacific Forum Islands report.

The failure of successive governments in formulating or implementing a comprehensive national communication policy has meant that the commercial media industry has had to operate and develop without guidelines. This inaction by governments has resulted in a breakdown in the monitoring and regulatory process (Pacific Forum Island Countries, 2005, p255).

The report also claims that the process of privatisation has fragmented the functions of media that were once the sole responsibility of one government agency.

Even though many journalists have worked in the mainstream media before working in government departments, inviting government media officers to annual media awards could strengthen the relationship between the government media officers and mainstream media.

Media training is a necessary skill required by politicians as they need to understand how media functions and how best they can utilise it to publicise governance issues.

It would also be useful for government media to disseminate press statements in languages other than English as many communities miss out on information, says the report.

Not all government departments have appropriate systems to store and then retrieve information. Basic information on government websites is seldom updated, which is why the *Post-Courier* newspaper keeps its own database of government information with the editor keeping a running file of the prime minister's speeches and major policy statements.

The duty of the government to provide maximum information disclosure to the public and the need to ensure that access processes are user-friendly, as well as the need to ensure that people are aware of their rights and how to participate, are the main principles behind the FOI initiative.

## **Fiji Islands**

### *Background*

Fiji, or 'coup-coup land', as it has been dubbed, has suffered from much political instability in recent years with four coups in the last twenty years—two in 1987, one in 2000 and another in 2006. Varying degrees of media freedom have been allowed during these coups. During

Rabuka's coup in 1987, the press was closed down (Mason, 2005). Rabuka cited the hostile treatment from Australia and New Zealand media as a reason for this and accused journalists of using Western values to judge what was 'an indigenous problem in an Asia-Pacific area' (Mason, 2005: 230). The coup and the resultant pressure on journalists caused many of them to leave (Robie, 2004).

In 2000, the journalists were locked-in with the purported coup leader George Speight and his supporters in Parliament, where members of the ousted Chaudhry Government were being held hostage. Some journalists became overly friendly with the coup leader (Robie, 2004). Gounder (2007) contends that some journalists who spent time inside Parliament actually suffered from the Stockholm Syndrome in that they started to sympathise with the putsch leaders. She says cultural ties made it difficult for journalists to maintain their professionalism.

Journalists and media organisations received a number of verbal and physical threats during the 1987 and 2000 coups (Pacific Forum Island Countries, 2005). Since the 2006 coup journalists have also faced threats and intimidation.

When the ousted prime minister Mahendra Chaudhry was released from detention in Parliament after the George Speight coup of 2000, he partly blamed the media for his government's downfall (Robie, 2001). According to Robie, the *Fiji Times* in particular seemed to wage a relentless campaign against the new Chaudhry government, eventually contributing to its demise. Field (2005) accused some sections of the media of being anti-democratic. The president of the Fiji arm of Transparency International, Ikbal Jannif, pointed out that the media wanted everyone to be accountable apart from the media itself (Robie, 2001).

Mason (cited in Robie, 2007) has criticised Australian and New Zealand reporters of Fiji coups for not having an indepth understanding of the political and cultural situation in Fiji. He called for a 'more committed and focussed interest in reporting of the Pacific by the media organisations'.

Currently Fiji is under military rule under Bainimarama, who has threatened to impose regulation on the media because he believes the press is taking an 'anti-Fiji' stance (Radio New Zealand, 2008). *Fiji Times* editor-in-chief Netani Rika denies the allegations and says the media is merely reporting on what is happening in the country.

Former *Fiji Daily Post* publisher Ranjit Singh (interview with authors, June 11, 2008) is critical of Fijian media, saying it is not balanced or neutral because it mostly gives the indigenous point of view and few

Indo-Fijian opinions. He calls for a more racially diverse media. In a media analysis following the 1992 general election campaign, Devi (cited in Robie, 2001) found that the *Fiji Times* and *Daily Post* both practised self-censorship that supported an indigenous viewpoint.

New Zealand Fairfax reporter Michael Field was not allowed to enter Fiji in June 2007 to report on the expulsion of New Zealand High Commissioner Michael Green. He was told he was on a blacklist, which he believes was linked to articles he had written about lawyers being detained in Fiji (Radio New Zealand, 2007). The expulsion of *Fiji Sun* Editor Russell Hunter was widely criticised by media throughout the world but it was not widely reported by media that he had actually been expelled from Fiji before, while editor-in-chief of the *Fiji Times*.

### *Media Council in Fiji*

In 1996 the Fiji government, in a bid to make the media more accountable and less of a menace in their view, commissioned a review of media legislation that resulted in the Thomson Report. Singh says the report followed a time of tension between the government and the media, during which the media became 'bolder and more intrusive' (2005: 43). It also led to the establishment of the Fiji Media Council in 1998, which paved the way for public complaints against the media to be heard (Singh, 2005).

Nearly all the media organisations in Fiji are members of the Fiji Media Council. Two aims of the Media Council are: to 'uphold freedom of speech and expression and uphold the public's right to be informed accurately and fairly' (Pacific Forum Island Countries, 2005: 155). It also has an independent complaints committee and a code of ethics for journalists.

The Fiji Media Council has a Code of Ethics, which was adapted from the BBC Code of Ethics. It was used by five out of nine media organisations surveyed in the Informing Citizens Report (Pacific Forum Island Countries, 2005).

In his introduction of the draft Media Council of Fiji Bill, deposed Prime Minister Laisenia Qarase described journalists as inept while his then Information Minister Simone Kaitani said the Fiji Media Council was powerless to protect the public from biased and ill-informed journalists (cited in Singh, 2005).

The media in Fiji have faced restrictions because democracy has been in place a short time, says Singh (2005). He argues that in countries

with a longer history of democracy the government is less likely to use criticism of media standards as an excuse to bring in restrictive laws.

### *FOI Legislation*

Unlike in Australia and New Zealand, Freedom of Speech and thus media freedom was guaranteed under the Fiji constitution of 1997:

30. - (1) Every person has the right to freedom of speech and expression, including
- (a) freedom to seek, receive and impart information and ideas; and
  - (b) freedom of the press and other media.

However, FOI legislation has still not been passed despite being in the pipeline for several years. The Thomson Report of 1996 highlighted legal restraints on disclosure of information as one of the key issues that needed resolution through legislation. Introducing this legislation would require the repeal of the current Official Secrets Act, as happened in New Zealand. The Fiji Media Council supports the proposed FOI legislation as it will give the media access to information that they feel they should report on (Pacific Forum Island Countries, 2005).

Four of five media organisations in Fiji gain their information about the government from the government website. Fiji TV One's news director said access of government information could be more streamlined by appointing a spokesperson from each government department.

Ranjit Singh (interview with authors, June 10, 2008) says it is easy for journalists to access government information but the question is whether they report it or not. He says they report what fits their own ideology and advances their own purposes.

### **Cook Islands**

The Cook Islands has a resident population of approximately 12,000 people (Cook Islands Statistics Office, 2007) and is made up of 15 islands with most of the population living on the main island of Rarotonga. The total land area of the group of islands is 240 square metres and the economic area covers 1.8 million square metres of ocean.

Media in the Cook Islands is made up of the independently owned *Cook Island News* which produces a daily paper, three private FM radio stations and the Pitt Media Group (PMG) which owns the television sta-

tion, a radio station and two weekly papers – the *Cook Islands Times* and the *Cook Islands Herald*. All are based on Rarotonga.

All mainstream media in the Cook Islands was owned by the government until 1989 when it started to become privatised. In the same year, the government introduced the Broadcasting Act, which saw radio and television being operated by the Cook Islands Broadcasting Corporation (CIBC). Privatisation should have meant a step toward a ‘free press’ but until 2007 the government still pushed for media regulation legislation. Resistance from the media kept this legislation on hold. Part of the media response to government pressure was the formation of the Cook Islands Media Council (CIMC) in 1995.

When the government controlled media and news, fear of recrimination prevented free expression in countries such as the Cook Islands (Woods, 2008, personal correspondence with authors). Since 1989 newspapers have become self-sufficient and valuable resources, thanks in part to assistance provided by UNESCO in the early years of private media ownership.

According to Jason Brown, a veteran journalist in the Cook Islands, news media in the Cook Islands had been forced to ‘soft pedal’ until media privatisation. From then on, the media was able to evolve to the point where it became the most trusted source in the Cook Islands (personal correspondence with authors, 26 May, 2008).

### *Freedom of Expression in the Cook Islands*

Section 64(1) (e) of the Cook Islands constitution guarantees freedom of expression. However, like New Zealand, it does not include any specific guarantee to the right of government information.

Presently there are no active media councils in the Cook Islands, although there have been media bodies in the past, including the Cook Islands Media Association (CIMA). In 2004, CIMA was headed by Florence Syme-Buchanan, a Cook Island journalist who now works for Deputy Prime Minister Sir Terepai Maoate. The CIMC existed from 1995–1999 and was based on the Australian and New Zealand style of press self-regulation.

Singh says that the dominant print and broadcast media organisation, PMG, and the *Cook Islands News*, had faced pressure from the government for a long time. He says the government view was that the PMG had become too powerful and was abusing its power (Singh, 2005: 2). In 2004, the government announced plans to form an interim broadcasting

board to force media companies to meet the Broadcasting Act provisions. Plans were announced for the establishment of a Broadcasting Licensing Authority and Media Standards Council; to date these have not been established.

Syme-Buchanan had concerns that broadcasting services ought to take government policies into account (Singh, 2005). She said that CIMA would only support the development of the press council if it was going to be an independent one. The CIMA urged the government to introduce a FOI and Media Act. Finally, the government gave the media an ultimatum – form a self-regulating media council or have government legislate the media, (Singh, 2005).

### *Official Information Act*

The Cook Islands Democratic Party passed the Official Information Act (OIA) in February 2008 (Cook Islands Government 2008). This act is based on New Zealand FOI law. The Cook Islands now leads the rest of the Pacific Island counties in obtaining legislation for freedom of information. Although FOI has been talked about in many other Pacific Islands for a long time, no legislation has been passed. The purpose of the OIA is to increase the availability of official information to the public, enabling more effective public participation in voting under in a democratic society. The OIA is also designed to promote accountability within government.

There is a grace period of one year allowed before the OIA takes actual effect in February 2009. This will allow the Office of the Ombudsman to become familiar with the act and its requirements and allows awareness to be raised on the procedure of the new law. The CIMC was re-established late last year but it did not exist during the process of drafting this law.

Syme-Buchanan says that in the past, information was withheld by the bureaucracy but now the government is taking steps toward accepting the democratic principle that the public has a right to know:

It is a momentous and historic occasion for the Cook Islands and culminates almost five years of lobbying for the bill to progress into Parliament. The opposition is not expected to go against it in a big way. The government officials in Rarotonga are now learning about transparency and moving away from the age-old Pacific bureaucracy culture of secrecy (personal correspondence with authors, June 9, 2008).

## Preparation for the OIA

The Ombudsman's office on Rarotonga is responsible for administering the OIA. The Government's Ombudsman, Janet Maki, has formed a three-person implementation team. Editor Woods, who has had three years experience between 2003 and 2005 with New Zealand's Official Information Act as a senior communications advisor, has also worked as a Parliamentary press secretary, is in this team. Woods is awaiting approval from UNESCO on a report he has been working on for the *Cook Island News*. The report is entitled the *Official Information Act capacity building for the national daily Cook Islands News, the Cook Island public sector and the Cook Islands general public*. It details a plan for a project to prepare for the implementation of the OIA in February 2009. *Cook Island News* (2008) says the project aims to build capacity on the OIA and to promote the concepts of freedom of expression, transparency and disclosure in public and private sectors. The project aims to provide guidelines for everyday application and use of the OIA.

This is a capacity building project designed primarily to inform and empower Cook Island News journalists and correspondents (stringers) on how to use and promote the OIA, and to help grow a 'culture' of acceptance and understanding about it among politicians and bureaucrats (Cook Island News, 2008).

The immediate objective of the project is to train journalists on how the OIA works, including the process of making OIA requests, dealing with process delays and how to deal with inadequacies and OIA failures. It will also inform the 24 politicians and other bureaucrats in the Cook Islands of their responsibilities in terms of accountability, disclosure and transparency. In addition, it will inform members of the public on the principles and practices of FOI and freedom of expression. Advice will be given for study kits, in consultation with the Ministry of Education, for year 12 and 13 students. Advice will also be shared on preparing brochures (in both English and Rarotongan Maori) for the public about how to use the OIA and make OIA requests. The desired outcome of the capacity project is that Cook Islands journalists are educated to use OIA. Public sector politicians and bureaucrats will be informed of their obligations under OIA.

A model of the practise of FOI will be provided for the Pacific region and other development regions of the world. The OIA is a leading edge law that up holds important civil liberties and

principles and is a new and exciting statute that must be protected through on-going media reporting (Cook Island News, 2008).

According to Woods, recent issues related to OIA, such as when high level public salaries and information on the agreement with China were withheld, highlight the need for freedom of information (personal correspondence with authors, 10 June 2008). Under the OIA, the government will be forced to disclose such details.

## Conclusion

The Pacific region has been fraught with political upheaval. The fact that democracy is relatively new means governments tend to come down heavily on the media and are far too eager to impose regulations. The strengthening of media accountability systems such as press councils could likely boost the public and government confidence and trust in the media. It is important that the press is free, as this will lead to further development of Pacific Island societies. Press freedom is closely tied to the public's right to information so they can be full participants in a democratic society. The relationship between the media, the government and the public is a delicate one. The media needs to take the necessary measures and put in place whatever frameworks are needed to gain public trust and confidence. On the part of governments, there is a need to understand the media's role in development, and the importance of bringing in FOI legislation to create enabling environment for the media to carry out its role effectively.

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