Using Rights-Based Programming Principles to Develop Capacities to Claim Rights

The Regional Rights Resource Team (RRRT) UNDP Project in the Pacific Island Countries

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3. Using Rights-Based Programming Principles to Develop Capacities to Claim Rights: The Regional Rights Resource Team (RRRT) UNDP Project in the Pacific Island Countries

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**LIST OF ABBREVIATIONS USED:**

ADB: Asian Development Bank  
AusAID: Australian Agency for International Development  
CBOs: Community-based organizations  
CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women  
CP: Community Paralegal  
CRC: Convention on the Rights of the Child  
CSEC: Commercial Sexual Exploitation of Children  
CSOs: Civil Society Organizations  
DfID: Department for International Development  
ESCAP: Economic and Social Commission for the Asia-Pacific  
EU: European Union  
FWRM: Fiji Women’s Rights Movement  
HRBAP: Human Rights-Based Approach to Programming  
ICESCR: International Covenant on Economic, Social and Cultural Rights  
ICCPR: International Covenant on Civil and Political Rights  
IJALS: Institute of Judicial and Applied Legal Studies  
LRTO: Legal Rights Training Officer  
MDGs: Millennium Development Goals  
MPs: Members of Parliament  
NGOs: Non-governmental organizations  
NZAID: New Zealand Agency for International Development  
OHCHR: Office of the United Nations High Commissioner for Human Rights  
PDLPP: Professional Diploma in Legal Practice Programme  
PICs: Pacific Island countries  
PRAJA: Poverty Reduction through Access to Justice for All  
RRRT: Regional Rights Resource Team  
UDHR: Universal Declaration of Human Rights  
UNDP: United Nations Development Programme (UNDP)  
UNICEF: United Nations Children’s Fund  
UNIFEM: United Nations Development Fund for Women  
USP: University of the South Pacific  
WCWCR: Women’s Coalition for Women’s Citizenship Rights
1. Background and Rationale:

Country and Programme Context: The last 20 years has witnessed limited economic growth and development in the countries of the Pacific Island region. Regional forums and development reports have attributed such lack of progress to poor governance, which indicates a need for development that addresses democracy and human rights rather than just focusing predominantly on economic growth. Across the region, however, human rights, good governance, democracy and the rule of law are often poorly understood - partly because Pacific Island countries (PICs) Governments have not placed due emphasis on civic and human rights education. Along with the lack of understanding and subsequent lack of emphasis on civic and human rights education and norms, Constitutions or laws adopted in most of these island nations place more emphasis on civil and political rights, often at the cost of economic, social and cultural rights. Most Governments regard such rights as being too “expensive” (time and resource intensive) to implement and are often unable to recognise that international law allows for the progressive realization of such rights.

Politically, some PICs, for instance, have shown tolerance towards the military, police and civilian militia who are willing to subvert the rule of law with the use of force when election results do not accord with the dominant ideology and group. This has resulted in racist nationalism in Fiji, ethnic tensions over local resources in the Solomon Islands and severe factionalism in Vanuatu. The potential of such civil conflict often puts the building of functioning (and at times, fledgling) democracies under threat. There have been incidences of suspension of rights during times of emergency of even non-negotiable rights such as free speech.

The small size of these island populations also makes it socially difficult for human rights activists to challenge the status quo and take an unpopular position against the State or chiefs in villages or settlements (most of the PICs follow a system of indigenous governance wherein, along with central Governments, there exists local and traditional forms of governance in the villages/settlements where local chiefs rule). Openly taking a different position is often seen as going against the culture or a betrayal of one’s culture.

Such political and cultural challenges manifests in some cross cutting common and recurring themes as far as abuse of rights is concerned in the PICs. These include growing threats to human security, a lack of livelihood opportunities and access to resources - such as land – and are linked to rising income disparity and growing poverty. Such lack of emphasis on rights is felt more acutely amongst the most disadvantaged and marginalized groups of people, especially women and children (who are often more vulnerable to various forms of violation of rights, including domestic violence and child abuse that exists in most spheres of Pacific Island societies due to traditional and cultural practices). This is further accentuated through

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3 The Pacific Island countries are Fiji, Cook Islands, Marshall Islands, Nauru, Federated States of Micronesia, Kiribati, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu and the French administered territories of New Caledonia, French Polynesia and Wallis & Futuna.

4 According to Asian Development Bank and UNDP Human Development Reports.
discrimination that exists on the basis of race, ethnicity, gender and sexual orientation and which is evident in many of the PICs.

**Policy and Legal Framework:** As mentioned elsewhere in this paper, the indigenous traditional political structures in the PICs are rooted in patriarchal and hierarchical systems. Such a traditional system is strongly resistant to human rights interventions as the notion of rights is often seen as a “western imposition” on culture and identity. Thus, though most PICs have a Bill of Rights in their Constitutions, such a Bill, in most of the countries, often contain provisions relating to basic civil and political rights; only some are more advanced in terms of codification of such rights. For instance, Fiji, Papua and New Guinea and Tuvalu have Constitutions that contain advanced sections allowing for the application of relevant international human rights law/treaties where relevant (the Constitutional sections however contain no formal provisions about the need for ratification of such treaties).

All the PICs have ratified the Convention on the Rights of the Child (CRC); all but Tonga, Palau, Nauru and the Marshall Islands have ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). However, only Solomon Islands has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and no PIC has ratified the International Covenant on Civil and Political Rights (ICCPR).

The Governments of most PICs are generally officially supportive of human rights but the dominant patriarchal and traditional culture/indigenous local governance systems are strongly resistant to implementing and abiding by a culture of rights. Such resistance is visible in the fact that except for some notable exceptions like the setting up of a Human Rights Commission in Fiji and the passing of the Bill of Rights and the passing of the Family Law Act in the country, no other PIC has set up a Human Rights Commission. A Human Rights Commission is included in the Draft Solomon Islands Constitution but is yet to be set up. Tuvalu is now giving some consideration to setting up an extra position within the proposed office of the Ombudsman to deal with rights. But much more progress apparently needs to be made to demonstrate the PIC’s commitment to upholding a culture of rights (as has been stated in the recommendations of the Pacific Islands Human Rights Consultation held in Fiji in June 2004 that stressed the need for PICs to reaffirm their commitment to human rights).


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5 (43(2) Fiji Constitution, s 15(c), Tuvalu Constitution) and s 39(3) of the Papua New Guinea Constitution.
6 The Fiji Human Rights Consultation has since hosted the Pacific Islands Human Rights Consultation in Suva, Fiji, in June 2004.
Human Rights and the Role of Civil Society: The lack of well-defined legal frameworks for non-governmental organizations (NGOs) to function thus means that there is a consequent lack of strong civil society networks that can put pressure on the Governments to uphold rights of their citizens. NGOs often do not have the financial capacity, technical knowledge or wherewithal to undertake sophisticated rights advocacy strategies, with many of them only active in traditional service delivery roles. Many are also hesitant to assume a political watchdog role for fear of incurring official backlash. In some PICs like Tuvalu and Kiribati, NGOs are almost quasi-government entities, with their offices and secretariats located in Government departments.

Lately, there has however been the emergence of a number of national civil society organizations (CSOs), notably NGOs, in many of the PICs undertaking various types of human rights work (including human rights training and advocacy, though mostly focused on women’s rights issues). In both Fiji and Solomon Islands, the loss of democracy and the overthrow of elected Governments in 1997 (Fiji) and 2000 (in both countries) has given rise to a new type of NGOs that perform “watchdog” functions, including challenging the traditional power structures and demanding accountability. The Millennium Development Goals (MDGs) “shadow” report in Samoa has been prepared by Samoan civil society. Many such organizations/groups are funded by development agencies such the European Union (EU), Australian Agency for International Development (AusAID) and New Zealand Agency for International Development (NZAID).

It is in such a changing and challenging scenario that the role of a regional project - the Regional Rights Resource Team (RRRT) Project – in the PICs assumes significance in using rights-based programming strategies to capacitate marginalized and vulnerable groups to gain rights-based outcomes and is the subject of study in this volume.

2. The Study of the Regional Rights Resource Team (RRRT) UNDP Project in the Pacific Island Countries using Rights-Based Programming Strategies

Case Study/Project Context: RRRT was initially established in 1995 in response to the need to promote the legal and human rights of women articulated by some PIC women’s NGOs at a number of stakeholder meetings. Initially designed by a UK Department for International Development (DFID) lawyer and the Fiji Women’s Rights Movement (FWRM) legal literacy team, it grew out of a legal literacy project conducted by FWRM and funded by the Economic and Social Commission for the Asia-Pacific (ESCAP) during 1992-1994. The FWRM mass media campaign on the rights of women in the law under this Project created a demand for further substantive research in this area. The resultant research project, funded by The Asia Foundation and DFID, grew into a substantive FWRM Handbook titled “Law for Pacific Women: A Legal Rights Handbook”. The success of the FWRM Legal Literacy Project - together with other legal awareness campaigns in other PICs undertaken by a number of NGOs - created a groundswell of opinion amongst PIC women’s NGOs that there is a dire need for legal literacy training for women. Several consultations involving


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Government, donors, development agencies and NGO representatives were held for DfID to ascertain the need for a similar Project/organization that could provide such needed services to marginalized and vulnerable groups of women. There have since been three subsequent project designs that expanded the work of RRRT to broader target groups and to a wider range of human rights and poverty issues. During these manifestations of the RRRT Project, United Nations Development Programme (UNDP) and representatives from various partner PIC NGOs were involved at all stages of the project planning/implementation cycle. UNDP assumed management responsibilities for RRRT in April 2002 when DfID withdrew direct assistance to the region. The current three-year phase of the UNDP-RRRT Project, entitled Poverty Reduction through Access to Justice for All (PRAJA), is funded by DfID until September 2005.

From 1995 and till date, RRRT has been instrumental in capacitating vulnerable groups of people across the PICs to demand and claim rights. The Project was globally recognized when it received the United Nations Children’s Fund’s (UNICEF) Maurice Pate Award in 1998 for its role in promoting the human rights of women and children. The initial, narrower focus on women’s rights and legal literacy has since expanded to wider human rights issues and education in response to the evolving global development and rights agenda and local needs and priorities.

RRRT is currently being incorporated in Fiji as a “not for profit” company. Though the current phase of the project will end in September 2005, it will continue to work in the region as an institute, developing the capacities of its partners at all levels to bring about human rights change at various levels.

**Stakeholders Involved:** RRRT consists of nine Trustees (or Members) and a seven-member Board of Directors who is responsible for organizational governance. The gender balance in the composition of the Members and the Board reflects the principle of gender equality that the Project seeks to achieve in all aspects. Its staff members belong to the countries of Fiji, Kiribati, Solomon Islands, Tonga and Vanuatu.

From the day it was first conceptualised as a project that aimed at providing legal literacy and training to women, it has grown today to become a full-fledged Pacific-based regional human rights organization that provides technical and policy advice, capacity-development and training on human rights at macro, meso and micro levels. RRRT partners with Governments, regional and civil society organizations to build capacities to deliver and claim rights. RRRT has programmes in the Cook Islands, Fiji, Kiribati, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Through regional partnerships, RRRT has also worked in Papua New Guinea, the Northern Pacific and the French Territories.

**Objectives:** RRRT’s vision is: “A socially just and equitable Pacific Islands society based on the principles of human rights, good governance and democracy”. The goal is “To strengthen the capacity of the Pacific region to promote principles of human rights and good governance in order to achieve greater democracy based on social justice.”
The objectives for achieving these goals include:

- Strengthening the capacity of policymakers to adopt and apply human rights principles and good governance practices;
- Strengthening the capacity of implementation-level agencies to develop, promote and apply human rights principles and good governance practices;
- Strengthening the capacity of civil society and marginalized groups to advocate, assert, monitor and defend human rights and good governance – with special focus on the poor, women and children; and,
- Strengthening the capacity of RRRT as a Project/organization to enhance its delivery of innovative and cutting edge human rights support and services to its partners in promoting good governance.

3. Process:

The Use of a Three-Tier Rights-Based Programming Strategy in RRRT for Developing Capacities: RRRT uses an approach wherein promotion and realization of human rights per se are a focus and overall goal. It should be noted at the outset that RRRT’s purpose is not just to promote human rights to build a Pacific Islands’ human rights culture but to capacitate its stakeholders to deliver and claim human rights in all spheres - whether they be civil and political rights or economic, social and cultural rights - and designs training specific to the needs of the requesting group or agency depending on the priority of the country or organization (for instance, responding to claims to: regain loss of free speech in Tonga; the loss of democracy in Fiji and Solomon Islands; constant political upheavals due to improper elections in Vanuatu and so on). Thus, training is designed to accommodate development needs that are country and context specific.

A goal of such training and capacity development is to integrate a human rights-based approach (HRBAP) to development. RRRT uses a multi-layered approach most effective in generating change. Focusing interventions at three levels through a three-tier top-down and bottoms-up approach creates opportunities for policy changes to be initiated by decision makers, whilst accommodating initiatives from the community. In this way, RRRT has not only assisted in empowering disadvantaged groups to demand and claim their rights, but also sensitised decision makers and delivery agents to use human rights conventions and principles in their work, thus ensuring a comprehensive, society-wide approach to advancing human rights and good governance.

The three –tier approach uses the following strategies to build capacities:

Tier One: This form of capacity development is undertaken at the macro level with Government ministers, judges, magistrates, Members of Parliament (MPs) and senior public servants through policy advice, technical support and training, both at the PIC level and regionally. Services ranges from ad hoc support upon request or systematic training working with the same groups of individuals who demonstrate support for human rights as reflected in their decision-making and policies;
**Tier Two:** Work at this meso level includes working with stakeholders such as magistrates, mid-level public officials, Law Reform Commissions, Legal Aid Commissions, Ombudsman offices, Human Rights Commissions or other national human rights institutions/desks, other Government departments, the University of the South Pacific’s (USP) law programme (in Fiji), NGOs and local authorities. The police, social welfare and gender officers, teachers and health workers also fall within this cluster of partners. Because they are frontline service providers interacting with the wider population on a daily basis, meso level actors are instrumental in promoting and applying human rights principles and practices. By virtue of their positions, implementation agents can play an effective facilitative role between the policymakers and community and also effect improvements quickly.

Key partners at the meso level also include NGOs; in the past, RRRT has worked more with developmental and social sector NGOs whilst partnerships with commerce and employer organizations, professional groups and trade unions have been ad hoc. There is an abundance of NGOs in the region with great variation in the levels of capacities. Very few NGOs have the capacity to advocate, assert, monitor and defend human rights. Developing the capacities of such groups is one of the most important outcomes under this objective;

**Tier Three:** Work at this micro-level represent the largest group that RRRT works with and consists of community-based organizations (CBOs) such as village chiefs, village-based religious, women and youth groups and individual citizens. In the Pacific, churches and chiefs play a significant part in peoples’ lives - because of their access to and influence on the socio-cultural framework of local communities, especially in rural communities – especially where the influence of central Government is sometimes limited. Activities to help achieve this objective include the **Community Paralegal (CP) Training Programme** and the **placing of a funded Legal Rights Training Officer (LRTO) in a CBO/NGO**. The LRTO receives intense training from RRRT and works at all the three levels of RRRT interventions - macro, meso and micro - to bring about strategic change (To gain more insight into how the Community Paralegal Training Programme helps build capacities to demand and claim rights, see Section below on “Capacity/Role of Duty-Bearers (including the Private Sector/Related Frameworks) in Addressing Demands”).
Rights-Based Programming Principles under the RRRT Project – The 15 Principles: An analysis of RRRT’s programmes and work reveal that the Project has developed a multiplicity of rights-based principles that are central to programming and being used to demand and claim rights. These principles are:

1. Encourages the protection and realisation of human rights;
2. Uses human rights conventions as a set of standards and common language;
3. Operates on the principle of non-discrimination;
4. Adds a legal focus to development;
5. Enables access to policies and legislative frameworks;
6. Encourages adherence to the rule of law;
7. Facilitates participation and accountability;
8. Empowers communities through capacity development;

1. Changes the situation of the beneficiary or group from passive aid recipients to rights-holders;
2. Enables development cooperation to contribute to the development of the capacities of duty-bearers to meet their obligations and/or of rights-holders to claim their rights;
3. Focuses on how development outcomes are brought about;
4. Scrutinises poverty through a human rights lens and encourages a more structural approach to poverty alleviation;
5. Lays a base of mutual trust and cooperation to achieve viable and sustainable outcomes;
6. Integrates gender as an integral part, not an “add on”; and,
7. Adds value as a catalyst.

Rights-based outcomes under each of the 15 principles are elaborated in Section 4.

**Capacity/Role of Duty-Bearers (including the Private Sector/Related Frameworks) in Addressing Demands:** A key activity which has proved successful for RRRT in applying a rights-based approach to programming has been in its building up the capacities of stakeholders under its CP Training Programme and the LRTO Programme. Between 1996-2004, these two programmes trained and helped build up an extensive network consisting of seven LRTOs and over 250 CPs in seven PICs.

The CP training is targeted at Government officers (duty-bearers) and community leaders/activists in order to provide paralegal advice and human rights support to their local constituents. Training normally lasts between 6-8 weeks spread over 2 years, allowing participants the opportunity to apply the knowledge gained between modules. The partner organizations in PICs try to select participants and Government representatives from the local communities on the basis that they will be in strategic positions to mobilize and monitor around human rights issues. RRRT does not favor the “zoom-in-zoom-out” strategy, as it does not build a sustainable human rights culture; nor does such a strategy develop a strong indigenous capacity for human rights empowerment. RRRT therefore provides ongoing support, mentoring and technical advice long after the formal training ceases. Thus, the preference is for the CPs to be working in organizations or departments that are already focused on rights issues, so that their human rights knowledge and skills enhance their ability to be agents of positive change. A further objective is that such organizations are more likely to adopt a rights-based approach in their own programming.

Training is tailored depending on the needs of the country and organizations. The network of LRTOs and CPs keep RRRT abreast of the key issues in the islands and subsequently help RRRT work in several different contexts. What is significant about the training is that CPs learn not just how to use human rights to make gains in the law or in realizing their civil and political rights but also to assert and make gains under the various economic, social and cultural rights in accessing goods and services. Building up their capacities at mobilizing, advocating and lobbying are thus crucial factors that determine CPs as being the initial catalysts for bringing about change or are an important strategic step that ultimately brought about the change. Gains made are many and varied and cuts across sectors and have been delved into in Section 4.
Box 1: Community Paralegals – Developing their Own and Community Capacities to Address Demands and Claim Rights

At the community level, CPs have organized training workshops, visited communities and taught principles of human rights in their immediate surroundings and within the workplace. Other actions include reviving interest in conventions and committees like the CEDAW and CRC; unionising for labor rights; organizing human rights networking groups; etc. Some CPs have used their own capacities/skills to address demands on rights issues by setting up their own human rights groups – like the formation of an East Honiara Paralegal Association and the Task Force on Human Rights in Ysabel. In the Solomon and Cook Islands, radio broadcasts from trained CPs extend the understanding of human rights at the community level.9

Such capacity development strategies to demand and claim rights is further substantiated via RRT’s focused interventions at three levels – macro, meso and micro - through its top-down and bottoms-up approach and through the use if its 15 programming principles that creates opportunities for change to be initiated by decision makers, whilst accommodating initiatives from the community. As mentioned elsewhere in this paper, RRRT has not only assisted in empowering disadvantaged groups about their rights, but also sensitised decision makers and delivery agents to use human rights conventions and principles in their work, thus ensuring a comprehensive, society-wide approach to advancing human rights and good governance.

Monitoring to Ascertain Rights-Based Outcomes from the Rights-Based Programming Strategy: Monitoring is undertaken at all three levels/tiers of intervention. At the macro level, all programming is monitored through reporting, media releases and outcomes as a result of programming (such as the passing of the Fiji Family Law Act in 2003). Documenting outcomes at the macro level is also conducted through desk reviews of the use of international conventions in case law records. RRRT also maintains an “impact” folder in which positive impacts - be they speech notes from key leaders, interviews or even direct correspondence with RRRT - regarding the evaluation of their work are all recorded.

A similar monitoring approach is used at the meso level tier of intervention. For instance, RRRT maintains a register of all law graduates who have passed the Pacific Diploma in Legal Practice (PDLP) and who have gone through RRRT’s three week legal training in human rights. As this training and the work that the lawyers undertake as a result of such training is crucial, RRRT monitors the progress of these lawyers in their work and the cases they cover. RRRT also analyses the decisions/judgments of all PIC courts to assess whether human rights are being addressed by the lawyers and judicial decisions on an occasional basis - the lawyers and Judges who use human rights law are then targeted for further training.

9 From the RRRT Community Paralegal Training Review Report, by Sue Elliot and Diane Goodwillie, November 2004.
Monitoring outcomes at the micro level is far more challenging - as RRRT has trained over 250 CPs across the Pacific (all of whom are working at the community level), maintaining a register of their impacts has proven to be very time and resource intensive. The CPs are involved in a wide range of community activities, ranging from working with women’s groups to building capacities of environmental lobby groups. Some of their impacts are easy to document, but others are more subtle, personal and therefore, more qualitative and thus, more complicated to monitor. In addition, the CPs also come from diverse backgrounds with a varying range of skills and capacities; many demonstrate limited capacities to document their activities and impacts in a concise written format. In order to strengthen this area, RRRT is currently embarking on a refresher training for its community paralegals that will focus on areas related to strategies for change, HIV/AIDS and the Law, monitoring human rights cases and basic media skills. It is envisaged that the combination of monitoring and media training will strengthen the CPs ability to record their impacts more effectively, and to disseminate them to others.

4. Outcome (Results):

The building of capacities through the use of the three-tier approach and the 15 programming principles has produced outcomes that cut across sectors. These outcomes assume even more relevance as they have produced results at all three levels of intervention. Only a few examples will be given to illustrate rights-based outcomes under each of the 15 RRRT programming principles. A more comprehensive version of the impact of RRRT’s work (Impact Tables) can be found on their website www.rrrt.org or can be obtained by writing to info@rrrt.org.fj

- **Encourages the protection and realisation of human rights:** RRRT contributes directly to the protection and realisation of human rights through training and advocacy of the human rights international normative framework and by supporting the establishment of national human rights institutions. From 1995 to 1998, RRRT, with its Fiji in-country partners, lobbied for the establishment of the Fiji Human Rights Commission (the first such commission ever set up in a PIC) and for the inclusion of a comprehensive Bill of Rights and a non-discrimination clause in the proposed Constitution. This resulted in the 1997 pro-democratic Constitution that included a comprehensive Bill of Rights and a clause setting up the Commission. The RRRT Human Rights Advisor – a woman - became one of the two first independent part-time Commissioners in 1999, bringing to the fledgling Commission, much needed human rights expertise. This first Commission employed the (now) current Director, drafted the first National Action Plan and helped establish the Commission as a credible national human rights institution. RRRT, through its USP annual human rights training programme, trained the lawyers who currently staff the Commission.

RRRT also funded and supported the Women’s Coalition for Women’s Citizenship Rights (WCWCR) in 1996, spearheaded by RRRT’s key NGO partner in Fiji - the FWRM - which brought about equal citizenship rights for women in Fiji’s new 1997 Constitution.
The Solomon Islands draft Constitution contains a comprehensive Bill of Rights and a clause for the establishment of a Human Rights Commission. The draft Bill is a result of RRRT working at the macro level with UNDP at the Pacific level, MPs and senior civil servants, combined with advocacy from CPs who have been trained during the Solomon Islands CP programme to advocate for a Bill of Rights and a human rights commission.

The Project has also contributed directly to the realisation of both civil and political and economic, social and cultural rights, ranging from free speech mobilization in Tonga; the right to education in Vanuatu; the right to a fair trial in Fiji; and CRC rights in Vanuatu, Fiji and Samoa.

Uses human rights conventions as a set of standards and common language: At all three-tiers of intervention, the core human rights conventions are a subject matter of training and a means of verification for achieving of standards and a common language of networks. RRRT has been training duty-bearers like the judges, magistrates and lawyers on a regional basis since 1996 (See Box 2 below) and the outcomes have been positive.

**Box 2: Developing Duty-Bearers Capacities to Develop Human Rights Standards in the Pacific**

Training of relevant duty-bearers like judges, magistrates and lawyers has produced three regional declarations10 - *The Tanoa Declaration on Human Rights and the Law 1999, The Denarau Declaration on Gender Equality 1997 and The Pacific Island Judges Declaration on Gender Equality in the Courts 1997* (committing judicial officials to apply gender equality measures and human rights in the courts). These declarations have resulted in numerous court decisions in which judicial officials have shown intolerance to domestic violence, greater willingness to order more realistic financial settlements to deserted women and children and to apply human rights conventions to decision making. Some 20 judgements in the courts of Fiji, Samoa, Vanuatu and Kiribati have used or referred to various conventions in the course of decision making through training of activists, lawyers and judges/magistrates.

During the lifetime of RRRT, five countries have ratified conventions either due to direct RRRT support or working in partnership with others (who have been trained by RRRT). This includes the Federated States of Micronesia, Tuvalu, Solomon Islands Kiribati and the Cook Islands. Ratification has also been a strong leverage for national improvements. For example, after NGO submissions in the Fiji Shadow report to the CEDAW Committee arguing for the need for the Family Law Bill to be revived, the Concluding Comments made direct reference to this argument. RRRT partners used the Comments to get the Bill back on the legislative agenda. The Bill subsequently became law in October 2003.

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10 *The Tanoa Declaration on Human Rights and the Law, 1999, by Chief and Senior Magistrates of the Pacific region; The Denarau Declaration on Gender Equality, 1997, by Fiji Magistrates; and The Pacific Island Judges Declaration on Gender Equality in the Courts, 1997, by Chief Justices and Senior Judges of the Pacific*
Solomon Islands ratified CEDAW and Optional Protocols in 2002. RRRT had been working with NGO partners and Government agencies since 1997 towards this objective.

RRRT has assisted both the State and NGOs in the reporting of CEDAW and CRC in Tuvalu, Fiji, Samoa, Cook Islands, Solomon Islands and Vanuatu (by either writing the report or sections of the report; by providing technical advice for the report; or, in Samoa’s case, assisting United Nations Development Fund for Women (UNIFEM) in a mock hearing to prepare the State for the oral hearing in New York in January 2005).

Human rights standards are also a compliance tool. UNICEF is currently working with RRRT to ensure that the proposed Child Rights Bill in the Solomon Islands be consistent with the CRC. In the Cook Islands, the LRTO and partner organization used the CRC to collaborate with the Ministry of Education to establish an Anti-Corporal Punishment policy in schools, in compliance with the CRC. RRRT also assisted UNICEF in coordinating a Commercial Sexual Exploitation of Children (CSEC) study in Solomon Islands, Vanuatu and Kiribati in compliance with the right of children to be protected as contained in the CRC.

As a result of partnership efforts, both the Fiji Constitution and draft Solomon Islands Constitution contain a progressive clause obliging the courts and State to apply international human rights law where relevant. In Fiji, this clause has been used to apply to non-ratified as well as ratified conventions

- **Operates on the principle of non-discrimination:** This principle operates at different ways in RRRT. Firstly, RRRT, on an organizational level, is based on the principle of non-discrimination - especially as it pertains to policy, functioning, hiring and management of human resources and outlook. Second, and more importantly, non-discrimination is a basic principle for providing technical advice, formulation of policy and preparing training material at all the three tiers of intervention.

The RRRT training manual has several modules either devoted or touching upon the principle of non-discrimination. Examples of RRRT impact in this area include the Tuvalu LRTO successfully mobilising against attempts to expose the privacy of individuals living with HIV/AIDS in Tuvalu using the relevant conventions and the Bill of Rights (and in particular, anti-discrimination provisions of the ICCPR and the ICESCR). The LRTO in Tuvalu has also used the principle of non-discrimination to increase access to justice by helping women file cases for unfair distribution of family lands in Tuvalu.

- **Adds a legal focus to development:** RRRT encourages the use of legal frameworks as a means of realising the right to development. The training module for the meso and micro levels devotes almost a week of training on strategies for change - part of which addresses how to use the law as an instrument of change (not just for changes within law but to gain access to goods and delivery of services). This module addresses the definition, identification and formulation of strategies of change,
advocacy, lobbying, planning and monitoring and evaluation. It encourages the use of law whilst recognising its limitations – that the law can be a tool of oppression as well as liberation. An example of using legal provisions as a rights-based tool is provided by a CP from Vatukoula - a rural mining town in northern Viti Levu, Fiji - who used international human rights law as a means of gaining access to piped water for the school. As a result of her efforts and in collaboration with the head teacher and Parents, Teachers & Friends Association of the Vatukoula Primary and Marist Convent School, the Government built a reservoir which now supplied treated water to the school. Advocacy efforts are now underway to enable provision of treated water to a mining community in that area.

- Enables access to policies and legislative frameworks: Capacity development under RRRT is aimed also at not only providing information about relevant laws and policies but also in helping build tools by which the community can make inputs into such laws and policies. This has allowed LRTOs and CPs in almost all target countries to influence and shape national gender policies and in some countries, frame gender sensitive budgets as well (like in Fiji and the Cook Islands). In Vanuatu, RRRT training of Vanuatu Women’s Centre CPs and magistrates in 1996 enabled a policy commitment towards the issuing of restraining injunctions against violent husbands as matter of practice since there is no legislation providing for such protection orders. This initial policy commitment - which became a practice of the Court - is now a clause in the Vanuatu Domestic Protection Bill. Thus, one can trace, in the RRRT cycle, the evolution from training to impacting and making/changing policy to eventual law (if passed) and the impacts of such laws on the lives of people.

CP networks have used their knowledge to assist in the Constitutional reform process in Solomon Islands; for Constitution amendments in Fiji, Kiribati and the Solomon Islands; and, to make inputs into the Family Law Act 2003 (Fiji); the Domestic Protection Bill (Vanuatu); Child Rights Bill (Solomon Islands); the Social Justice Act (Fiji); the Industrial Relations Bill (Fiji); the Evidence Act 2003 (Kiribati) and, national gender policies in most PICs.

- Encourages adherence to the rule of law: Citizens of Fiji, Solomon Islands and Vanuatu have suffered in varying degrees as a result of major political upheavals and the temporary loss of democracy. RRRT contributes to encouraging democracy and respect for the rule of law in various ways. RRRT NGO partners were involved in challenging the unlawful abrogation of the Fiji Constitution in 2000 in the landmark decision, Chandrika Prasad v The State11 This decision upheld the 1997 democratic Constitution, ushered in the return to democracy and paved the way for proper elections in the country in September 2001.

As mentioned elsewhere, RRRT stakeholders have been involved in the drafting of the post-conflict draft Constitution and draft Bill of Rights in Solomon Islands. The CPs in the Solomon Islands - in their awareness raising exercises at the community level - include democracy as a subject matter and relate it to how rights were being denied in the Islands when the rule of law was subverted.

11 Fiji Civil Appeal No ABU 0078 of 2000.
RRRT’s work with the AusAID Law and Justice Sector Project - which is aimed at building respect for the rule of law - has enabled it to influence policy in that the design of the Law and Justice Project should not only address the formal judiciary structures, but encompass the overall justice sector in the widest sense. Thus, components of capacity- development of civil and criminal courts are combined with access to justice and community crime prevention and safety components. This Project is currently being piloted in Fiji and Solomon Islands.

Facilitates participation and accountability: RRRT enhances both participation and accountability and supports the legitimacy of key principles of democracy and citizen participation using rights- based programming approaches and tools. Participation and accountability are recurring themes at all levels of RRRT training and the impact of such training is reflected in the level of policy interventions and technical support that RRRT stakeholders provide. These principles are singled out as core principles of good governance and are of great value, especially in Pacific cultures that teaches acceptance of polices/decisions/laws/norms that emanate from the top levels/duty-bearers, rather than demanding accountability from such stakeholders.

RRRT has worked with its partners to ensure participation in lawmaking and the formulation of policy. The Fiji Family Law Act 2003, the draft Solomon Island Constitution, the Kiribati Evidence Act 2003 and the Vanuatu Domestic Protection Bill are examples of participation in governance. The Fiji Family Law Act has been heralded by the Government and civil society as being the only properly consulted law in Fiji’s legislative history, “representing law making at its best”.12 The Solomon Islands draft Constitution consultations has been the only time the citizens have ever been involved in consultations at a policy level.

<table>
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<th>Box 3: Demanding Accountability – A Case Study in Solomon Islands</th>
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<td>RRRT’s work on demanding accountability has resulted in producing some landmark results. Of specific interest is a CP partner mobilizing with environmental groups against the dumping of toxic wastes by a Taiwanese company in Makira province in Solomon Islands. The female CP partner and local NGOs worked at the community and local provincial governmental level against the dumping of wastes in their province whilst RRRT worked with UNDP at the macro level to demand accountability and lobby politicians that allowing passage of toxic wastes and dumping in Pacific waters would be in breach of the regional Waigani Convention13 that the country was signatory to. The final decision led to the Government refuse the dumping of such wastes, notwithstanding the loss of a potential US$40 million to the exchequer.</td>
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12 Comments by the Attorney General of Fiji. Fiji Parliament’s Hansard Reports, October 2003, Debate on the Family Law Bill.
Empowers communities through capacity development: That RRRT builds capacities of the stakeholders it works with have been documented at length throughout this case study. RRRT trained LRTOs and CPs gear their efforts towards mobilising for change through RRRT-led skills development in campaigning, lobbying and advocacy. More instances of a result of such capacity development include RRRT partners mobilising against a village decree which sought to deny women rights to access land in Malekula in Vanuatu; helping poor women gain custody of their children, enforce maintenance payments and in getting domestic violence orders in several PICs; and, helping migrant commercial sex workers in Tonga find decent jobs.

Changes the situation of the beneficiary or group from passive aid recipients to rights holders: The work of RRRT and its partners is aimed at capacitating communities to assert their rights and not just be mere actors in the aid delivery and services processes. RRRT actively advocates rights as a strategy to challenge duty-bearers to deliver on their obligations. Such an approach encourages, for instance, poor women to gain access to goods, services and delivery through access to information and via using the language of rights and accountability. Such an approach has also resulted, for instance, in a CP establishing a new kindergarten in Malaita, Solomon Islands, after years of waiting for the State to do so, thereby realising the right of very young children to education and demonstrating an example that the State is duty-bound to follow. Similarly, CPs in Vanuatu, using their knowledge of governance processes, mobilized a village to begin its own education centre instead of relying on the State - when the State had not been responsive to demands for access to education. The community has since established a Community Training Centre, and a community and secondary school.

Enables development co-operation to contribute to the development of the capacities of duty-bearers to meet their obligations and/or rights-holders to claim their rights: The Review14 of RRRT conducted in September 2004 states that: “By a combination of persuading professional arguments and insights, sense for strategic alliances and critical mass support, RRRT manages to engage key duty-bearers and Government authorities in a constructive dialogue”. This RRRT trinity of intervention levels is a tested and proven model among several human rights organizations in the regions of Central America, Asia and South East Africa and signifies the recognition that systemic change requires a multi-layer and multi-stakeholder approach. It further states: “RRRT has, in many ways, been applying a rights-based perspective in the access to justice work. This focus on a rights-based approach highlights the crucial importance of strengthening the interface - the vertical relationship between duty-bearers and rights holders from the community level to the national level. RRRT’s record does hold examples of successful simultaneous intervention at all three levels around one specific issue. The Family Law Act in Fiji in 2003 is an example of such a long-term endeavour”.

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14 “Review of the RRRT Project”, conducted by Hanne Lund Madsen and Bruce Sutton, UNDP, September 2004.
Throughout Section 4 of this paper, there are many more examples of how RRRT helped developed capacities of both duty-bearers and rights-holders to meet their obligations and claim their rights respectively.

- **Focuses on how development outcomes are brought about:** RRRT achieves outcomes by building alliances at all levels that has proven to be more sustainable in the long run. It has enabled RRRT to gain entry and help NGOs/civil society dialogue with decision makers on a common platform. This is mainly due to the project design that attempts to involve the duty-bearers and rights-holders at all stages of project cycle (strategic planning, partnership strategies and the drawing up of country plans/strategies for implementation).

An important and significant RRRT strategy is not to directly engage the State in conflict when human rights violations occur or when calling for human rights compliancy but to work through local partners (often, local CBOs/NGOs). This allows for the capacity-development of indigenous organizations, the profiling of local partners and the building of local credibility. Such a strategy has also helped considerably in building a sustainable relationship with local partners.

- **Scrutinises poverty through a human rights lens and encourages a more structural approach to poverty alleviation:** The 2004 Review of RRRT states that: “At the level of community paralegal training, we may trace the attention to poverty alleviation and sustainable development, which has resulted in training modules on the MDGs and poverty reduction at community level”. The RRRT training manual includes a module on poverty and development and the link with human rights. The module is based on the premise that poverty alleviation cannot be sustainable unless there is an inbuilt rights perspective in which the poor have rights and entitlements that must be met by the duty-bearers. The needs of the poor need to be met not because of the benevolence of the State but rather because it is the obligation and duty of the State. In this manner, RRRT encourages political engagement of necessity. This is explicitly a rights-based approach to poverty alleviation and has resulted in some interesting impacts.

For instance, this approach has helped in setting up of cement toilets in 28 households in Tebero village on Abaigang Island in Kiribati and the enforcing of maintenance for individual poor women in Samoa, Vanuatu and Fiji. In Fiji, scrutinising poverty through a human rights structural lens has led to the passing of the Family Law Act 2003, which, when implemented, will have a direct impact on poverty alleviation at a structural level because it imposes greater responsibility on the part of the rights-bearers - the State - to put in place better enforcement mechanisms for payments for women and children. Similar impact might occur if the Solomon Islands passes the draft Constitution and Bill of Rights in its current form as it addresses a number of economic, social and cultural rights.

- **Lays a base of mutual trust and cooperation to achieve viable and sustainable outcomes:** It has been stated by the independent reviewers in 2004 that RRRT: “has a fine tuned form of advocacy that is miles apart from the blaming advocacy often used by other human rights organizations”. It also states: “Several Government and donor
officials have commended RRRT for adopting very wise and well-considered approaches, thereby succeeding in engaging with MPs and Director Generals, where other organizations’ initiatives have failed.” An example of laying the groundwork for such mutual trust and cooperation is found in the “Courts and Community Dialogue” initiative in Fiji (see Box below)

**Box 4: “Courts and Community Dialogue” in Fiji Helps Facilitate Citizens’ Access to Duty-Bearers**

In 2005, for the first time, the entire Magistracy and Judiciary of Fiji (including the Chief Justice and President of the Court of Appeal) sat down to a one-day “Courts and Community Dialogue” with representatives of CSOs - an event organised by RRRT and a female judge involved with judicial education. It has taken RRRT and its partners many years of advocacy and dialogue to get the judiciary to agree to participate in such a process. This landmark event enabled members of the judiciary to listen to concerns of the community in areas relating to gender, poverty, disability, children, minorities and governance and their perceptions of justice. The evaluation of the event revealed that the judiciary was extremely receptive to this process as it enabled them to obtain a first-hand account of the manner in which citizens perceived the justice system. Although it is too early to tell whether the dialogue will translate into any significant changes at the policy and grassroots level, the process, in itself, enabled groups to gain access to influential decision makers.

- Integrates gender as an integral part, not an “add on”: RRRT started out as a gender project and won the UNICEF Maurice Pate Award in 1998 for its outstanding and pioneering work for women and children’s rights. RRRT now has the largest pool of qualified, experienced human rights and gender experts (lawyers and development trainers) located within one Pacific regional organization. The benefit of this extensive knowledge base is reflected in the quality of its technical advice and in the relevance of its training and advocacy strategies.

All RRRT training materials are written with a gender perspective. Thus, gender is an inherent and ever present component in the delivery of training. At the macro level, several of RRRT’s LRTOs sit on their respective national gender committees or are gender focal points. Quite a few RRRT staff and LRTOs sit on many local, regional and international bodies as gender experts, thereby contributing to regional and international policy, e.g. the Asian Development Bank’s (ADB) External Forum on Gender. Through the ADB, RRRT influences regional financial policies in relation to poverty reduction strategies.

The gains made in terms of building capacities for disadvantaged and marginalized groups of women at the micro level to enable them to claim their rights have been documented throughout this Section. Some other instances of such gains made relate to gender equality international norms that have been used to gain access to speak at traditional tribunals that normally do not allow women to speak. RRRT intervention with partners on gender issues has resulted in contributing to “no-drop” policies for prosecution of wife beaters in domestic violence cases in Fiji and Kiribati. Most
LRTOs are housed in partner organizations that focus on the needs of marginalized groups, including. Non-discrimination is an inalienable provision in new legislation and policies and is reflected in the several pieces of legislation already mentioned throughout Section 4.

- **Adds value as a catalyst:** From inception, RRRT worked as a catalyst with the underlying principle of capacitating NGOs and civil society to campaign, lobby and advocate to claim rights. The LRTO and CP Programmes are key programmes that have enabled hundreds of community workers to be trained in identifying rights violations and in claiming rights, using various strategies. Of particular note in adding value as a catalyst is the RRRT initiative with the USP’s PDLP programme - the USP is the only regional university serving all 16 PICs, except Papua New Guinea. Based in Fiji, the PDLP is designed to help prepare new law graduates for taking up legal practice with an emphasis on the practical elements of the law and is coordinated by USP’s Institute of Judicial and Applied Legal Studies (IJALS). The programme has been running since 1997. IJALS now allows RRRT to undertake teaching related to the use of human rights in legal practice for three weeks every year to every graduating class consisting of, on average 40 students, from almost every country in the region. The PDLP course provides RRRT with an opportunity to set regional human rights standards and to develop the capacities of lawyers to promote and protect human rights. RRRT continues to provide lawyers who wish to use human rights in their work with additional material and other types of technical support long after they leave Fiji. This provides RRRT with an extremely important network of key strategic alliances. They have been key actors in building a nascent human rights culture in the Pacific.

5. The Value Added of Using Rights-Based Programming Strategies:

**Positive Lessons Learned:**

The lessons learned from the RRRT programming are context-specific and are valuable, especially for those countries where local traditions, culture and indigenous political systems play a major role in claiming (or in not being able to attain) rights. From this viewpoint, RRRT has been able to build a culture rights in many of the PICs it is working in and this assumes significance as most PICs (as have been reiterated in this paper) still have only limited understanding, resources and mechanisms for claiming and delivering rights. It is in this context that the independent review of RRRT in 2004 states that RRRT: “has a sound understanding of the national context/s, appreciation of the cultural reality and ability to work with ‘Pacific solutions’”.

- **Developing capacities and acting as a catalyst:** One of the positive lessons learned is that RRRT only acts as a catalyst in helping build capacities of rights-unaware PIC communities to demand and claim rights. Realising that all the PICs

15 The independent review of the PDLP programme undertaken by the University of New South Wales, Australia, in 2002, stated that the RRRT human rights component of the overall PDLP course was exceptional for its content and teaching methodology and complied with international standards.

16 Ibid. Refer to footnote No. 10.
operate under a culture of rights that are local and context-specific and also that a regional organization cannot be accepted _en masse_ in all the PICs, RRRT identifies and helps train/build capacities of local NGOs/CBOs and community workers - such training is considered by local NGOs/CBOs and communities to be inclusive and interactive, using well tested and gradually developed training material and compilations of key texts to build a culture of rights. Such a strategy of building capacities adheres to the local contexts but also bears in mind that human rights are universal and all communities are entitled to the same set of rights as set out in the Universal Declaration of Human Rights (UDHR).

- **Upholding the culture of respect to demand and claim rights:** RRRT realized that working in the PICs on rights issues cannot be undertaken without observance of respect for the local cultures and traditions that are unique in the PICs. Thus, rights interventions were undertaken in a culturally appropriate manner - observing local dress codes and respect for protocol (including religion) are two obvious examples. Observance of such a culture of respect led to many rights-based gains that were previously thought of as impossible to attain.

- **Using dialogue based on mutual trust and cooperation to achieve viable rights-based outcomes:** RRRT has learned, through experience, that engaging in dialogue and bringing all stakeholders together on the same platform is more likely to achieve sustainable rights-based outcomes. Using this approach has resulted in many gains made and these have been documented in Section 4. Such an approach assumes particular importance in small island countries where people are closely connected in various ways through their social ties, land owning (mataqali) groups and tribal clans.

- **Tapping into “local elites” essential to achieve rights-based outcomes:** Following from the above, one important lesson learned from RRRT’s programming is the _modus operandi_ in which the local elites have been co-opted as important stakeholders to achieve outcomes. In dealing with the recurring ideological challenge that exists that respect and adherence of human rights and democracy are against culture, identity and the local governance systems of Pacific peoples, the RRRT follows a strategy wherein slowly and incrementally, local groups are being convinced that human rights are not against the local chiefly system _per se_ but making the local chiefly system accountable. This has been a successful strategy in many instances. In many of the PICs, it is the local chiefs who dictate who local policies are framed and implemented (often, these are steeped in traditional patriarchal norms and beliefs). RRRT thus enlisted the participation of such local elites in all stages of project planning and delivery. For instance, in Malekula Island in Vanuatu, a local chief who attended two LRTO workshops ruled against a _kastom_ (customary) practice in which women were prevented from inheriting land because of gender discrimination. New informal village policies in a number of villages in various PICs were initiated on how to deal with domestic violence in a way consistent with the human rights of women. That RRRT staff or its partners have never been refused access to decision makers/local chiefs speaks of the necessity of a well-thought out strategy in which the enlisting of local elites are an essential corollary to achieve rights outcomes.
RRRT faces quite a few challenges in applying rights-based programming strategies, both internally (within the organization and via its partners) and externally (at the macro country level) as follows:

- **Limited knowledge of applying rights-based approaches within RRRT and its partners:** The level of knowledge of the understanding and use of rights-based approaches varies throughout RRRT (as an organization) and its networks/partner NGOs in the PICs it works in. Often, there is a lack of coherence on what rights-based programming actually means and what the value-added of using such a programming strategy can be to achieve sustainable outcomes. Applying rights-based approaches to demand and claim rights is a relatively new phenomenon in the development arena and more so in the PICs (where the level of sophistication of civil society to demand and claim rights and the capacities of the duty-bearers to respond to such demands is very limited). In such a scenario, there is no guarantee that using rights-based approaches can gain outcomes that are rights-based. Thus, RRRT and its partners are still “learning by doing” as far as applying their 15 principles on rights-based approaches are concerned.

- **Existence of limited or nascent forms of legal frameworks in guaranteeing and upholding rights:** While RRRT has helped build capacities of many PIC communities to demand rights, there is an attendant lack of responsive legal mechanisms that can guarantee and uphold such claims. This is mainly due to the fact that most of the PICs have only nascent forms of legal frameworks that are still not well-equipped to respond to claims made on them (this is in direct contrast to countries like India where a highly sophisticated civil society and an equally responsive legal framework exists and which is vital for a rights-based framework to operate).

- **Limited donors willing to invest in rights-based approaches:** As has been highlighted elsewhere in this volume of case studies, the use of rights-based approaches is often time and resource intensive (both in terms of time required to foresee outcomes and funds/staff necessary to undertake programming). DfID (and subsequently, UNDP Fiji) have supported RRRT; there exists a few other donors (like the EU, AusAID and NZAID) that have expressed interest in undertaking human rights programming in the PICs. However, the level of funding and continuing commitment necessary is not concomitant to the volume of work that is to be undertaken (considering that rights-based work in the PICs is still in its nascent forms) to bring the PICs to a level where it is universally recognized that rights for all are to be the norm than the exception. For instance, while RRRT has succeeded, to an extent, in convincing some PIC Governments to report on their commitments to various international conventions that they have ratified, the Governments are complaining about the financial and human resource burdens of reporting on these conventions. In such a scenario, some of the gains achieved through RRRT may be lost.
Dangers of “elite capture” while demanding and claiming rights: While there are many positives of co-opting local elites to demand and claim rights and use rights-based approaches to guarantee sustainable outcomes, there is also the danger of “elite capture”, especially in the highly stratified PICs where the already empowered and powerful (like the tribal chiefs and their kith and kin) benefit from RRRT’s work by merit of being powerful political figures and spokespersons in their respective communities. An instance of such elite capture is that of a highly influential CP in a particular village in Malekula Island, Vanuatu, who occupied a position among the village council of chiefs. As a result of his involvement in the CP training programme, he was requested by the village council of chiefs to draft a “village by-law”. He used his knowledge of the language of rights to draft a village by-law that forces marriages amongst couple in his village who were living together for more than a year and garnered support of the village council of chiefs for this law. Another example is that of a powerful CP in the Solomon Islands, who, after undertaking the CP training, announced that realisation of human rights for women were inappropriate for “other” Solomon Islands women in that specific country context. Such instances of monopolisation of training and other capacity development tools to actually interpret rights and laws to suit individual or traditional contexts can lead to denial of rights and can prove to be a challenge while operating in a fledgling culture of rights, particularly in the PICs context.
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