

# Oceania

Nic Maclellan

A major feature of 2004–5 is an assault on indigenous rights in Pacific Rim countries (highlighted by the Akaka Bill in Hawai'i, the abolition of the Aboriginal and Torres Strait Islander Commission in Australia and foreshore legislation in Aotearoa/New Zealand). There have also been significant changes in the non-self-governing territories of the Pacific, with new attempts to devolve powers to autonomous governments after conflicts in the 1980s and 1990s.

### Hawai'i

For five years, Hawai'i's Senator Daniel Akaka has been shepherding the Akaka Bill through the US Congress – legislation that will formally recognize Hawaiians as an indigenous people. In August 2005, the bill was put before the full US Senate for debate, even though many Kanaka Maoli (native Hawaiians) remain firmly opposed to the legislation.

Critics of the Akaka Bill say the legislation will make the US Department of the Interior the lead agency responsible for Hawaiian rights, that it enshrines a racial definition of indigenous Hawaiians based on blood, and that it ignores questions of international law about the overthrow of the Kingdom of Hawai'i in 1893. Hawaiian sovereignty groups like Ka Pakaukau see the Akaka Bill as a way to foreclose their right to self-determination under international law. There is also concern that the bill will open the way for a Land Claims Settlement Act to access the Hawaiian homelands, which are currently protected from foreign ownership.

The legislation was developed after the 2000 court case *Rice v. Cayetano*, when the US Supreme Court decided that voting for the Office of Hawaiian Affairs (OHA) by Kanaka Maoli alone – rather than all residents of the state – breached the US Constitution. This court ruling opened the way for other cases challenging affirmative action programmes for Kanaka Maoli, including the existence of the OHA and the Department of Hawaiian Homelands.

In July 2005, a US federal appeals court struck down the Kamehameha schools' policy of prioritizing education for Kanaka Maoli, saying it amounts to unlawful racial discrimination. Overturning a lower court, the 9th Circuit Federal Court ruled that the policy of allowing only Hawaiians to attend Kamehameha schools violates

the 14th amendment to the US Constitution, which outlaws discrimination on the basis of race.

### Australia

In Australia, Aboriginal and Torres Strait Islander (ATSI) people are under similar challenge from the conservative government led by Prime Minister John Howard. The Australian government has rejected measures it dubs 'symbolic reconciliation' – negotiations on a treaty with Aboriginal Australia, further action on the recommendations of the Royal Commission into deaths in custody, and an apology for the Stolen Generations (indigenous children separated from their families by welfare workers, missionaries and government officials).

Instead, it is moving on 'practical reconciliation', by dismantling Aboriginal-run institutions and 'mainstreaming' specialist services (previously run by and for indigenous Australians) into government departments. A 2005 Senate Committee on the Administration of Indigenous Affairs expressed concern that specialist organizational and cultural knowledge developed by self-managed organizations will be lost if funding for indigenous programmes is folded into Australian government agencies.

In a crucial decision, the government-created Aboriginal and Torres Strait Islander Commission (ATSIC) was abolished in March 2005.

Prime Minister Howard had already split the Commission into an elected arm and a funding arm in 2003, leaving ATSIC with no decision-making responsibility for the provision of services. The government then introduced the Aboriginal and Torres Strait Islander Amendment Bill 2004 to legislate for the complete abolition of ATSIC, which was passed by the federal parliament on 16 March 2005. These decisions were made with limited consultation and after the government had crippled ATSIC's ability to participate in the Senate Select Inquiry into Indigenous Affairs. Since then, the government has failed to propose an alternative model for an elected representative body for indigenous peoples and instead formed a government-appointed advisory board, called the National Indigenous Council.

The government's abolition of its own elected indigenous body reflects not simply a belief that its model was a failure, but also that indigenous self-determination should be off the agenda. The government policy comes at a time when Aboriginal

communities have rioted over police brutality following the death of a young boy in Redfern in February 2004, and the police killing of a man on Palm Island in November 2004.

Indigenous community leaders are also lobbying for government action on the ongoing social and health crisis, including an epidemic of petrol sniffing in rural communities and significant violence against indigenous women and children. A 2001 study on violence in Aboriginal communities by the National Crime Prevention Program estimated that the rate of deaths from family violence in indigenous communities is 10.8 times higher than for the non-indigenous population. Faced with significant failures in the criminal justice system, there is increased emphasis on restorative justice mechanisms for addressing criminal behaviour in indigenous communities, and women are heading key community initiatives for youth employment and community reconciliation. (Responses to family violence in indigenous communities are detailed in an important report by the Human Rights and Equal Opportunities Commission: *Social Justice Report 2003*.)

### **New Zealand**

The New Zealand Parliament passed the Foreshore and Seabed Act in November 2004. The bill overruled a June 2003 court ruling that found Maori may have customary interests in the foreshore, which could allow granting of title by the Maori Land Court. The new legislation effectively extinguishes this native title, and opened the way for extensive public protest. In May 2004, a *hiko* (protest march) of 20,000 people marched from the north of New Zealand's North Island to the capital Wellington. Associate Maori Affairs Minister Tariana Turia resigned from the government and has formed a new Maori Party, receiving a significant upsurge of indigenous support in the lead-up to national elections in late 2005.

### **French dependencies**

Major changes are under way in the three French dependencies in the Pacific: New Caledonia, French Polynesia, and Wallis and Futuna. Key politicians aligned with French President Jacques Chirac's Union pour un Mouvement Populaire (UMP), have been defeated in elections over the last year. In French Polynesia, the Tahoeraa party of Chirac's

close ally Gaston Flosse has twice been defeated in elections for Tahiti's local assembly in May 2004 and by-elections in February 2005. Flosse lost power to a coalition led by independence leader Oscar Temaru.

In New Caledonia, the anti-independence strongman Jacques Lafleur has resigned from Congress and lost the presidency of his party Rassemblement UMP, after the party lost power in May 2004 elections. Leaders of the Kanak independence movement Front de Libération Nationale Kanak et Socialiste – which has the support of the minority indigenous population – were elected to a multi-party government alongside their former opponents. For the first time in the Oceania region, two women are heading a government: President Marie-Noëlle Thémereau of the anti-independence party Avenir Ensemble and Vice-President Dewe Gorode, an Kanak independence activist, writer and poet from the Party of Kanak Liberation. French authorities in Wallis and Futuna are also in dispute with the Lavelua (King) of Wallis, 86-year-old Tomasi Kulimoetoke, who came to power in 1959 (two years before Wallis and Futuna adopted its statute as an overseas territory of France).

Lafleur and Flosse were two key pillars of French policy in the region – both had been in power for over two decades. Their defeat was a setback to the programme outlined by President Chirac when he toured New Caledonia and French Polynesia in July 2003. At the 2004 Pacific Islands Forum, French Polynesia was given observer status, but it was President Temaru and not French ally Gaston Flosse who addressed the assembled leaders of the independent nations of the Pacific. Temaru lobbied for French Polynesia to be re-listed with the UN Special Committee on Decolonization.

In June 2004, France's Overseas Minister Brigitte Girardin stated: 'Thanks to its territories, France is a Pacific nation. Thanks to France, Europe is present here too.' As French citizens, Kanaks, Tahitians and Wallisians all carry an European Union passport and can vote in elections for the European Parliament, even though they're 20,000 miles away. However, voter turn-out for European Parliamentary elections is often very low in the Pacific – in June 2004, voter turn-out was only 25.4 per cent of voters in New Caledonia, 43.07 per cent in Wallis and Futuna, and 39.85 per cent in French Polynesia. Increasingly, most New Caledonians and French

Polynesians see their future as part of the Pacific region, with increasing ties to the trade, cultural and social life of the great ocean. In September 2004, thousands of Kanaks gathered in New Caledonia's capital to erect the *Mwà Kà*, a 12-metre high, 3-tonne carved wooden totem to symbolize unity of the Kanak nation and a common destiny for all inhabitants of the French territory.

But independence will not come tomorrow. Under the 1998 Noumea Accord, New Caledonia will only vote on independence after 2014. In Tahiti, President Temaru has stressed that his victory was a vote to change the government – not a referendum on independence. With a narrow majority in parliament, a public service filled with Flosse appointees and a coalition government, Temaru says it will be at least a decade before independence comes.

### **Bougainville**

A further decade-long transition to a vote on self-determination is occurring after the May 2005 election of an autonomous government on the island of Bougainville – formerly the North Solomons Province of Papua New Guinea. Between 1989 and 1998, more than 12,000 people died during a blockade of rebel areas and armed clashes between the Bougainville Revolutionary Army (BRA), the Papua New Guinea Defence Force (PNGDF), and pro-PNG Resistance militias. The 1998 peace settlement opened the way for amendments to the PNG Constitution and the adoption in December 2004 of a new Constitution for an autonomous Bougainville.

In May 2005, voters on Bougainville elected an autonomous government led by President Joseph Kabui, a former BRA leader who later engaged in peace negotiations with Papua New Guinea. The death of BRA founder Francis Ona in July 2005, apparently from malaria, will hamper the project of the Republic of Mekamui, the self-proclaimed government in central Bougainville, which refused to join the peace process in the late 1990s. Bougainville will vote on its final political status after 2014.

There are also debates over rights for indigenous peoples and minority communities in independent nations around the region, especially as there is increasing regional integration and new immigration and investment from China, Taiwan and other Asian nations.

### **Fiji Islands**

There is ongoing tension in Fiji Islands in the aftermath of the May 2000 takeover of parliament by Fijian nationalist George Speight and the subsequent abrogation of the Constitution by the Fiji Military Forces. Although 2001 elections returned the country to parliamentary rule, there are unresolved tensions over the slow pace of prosecutions and reduced penalties for coup supporters (Fiji Islands' former Vice-President Ratu Jope Seniloli was released from prison in November 2004 after only four months of a four-year jail term for coup-related offences). In 2005, relations between the Fijian and Indo-Fijian community have been stressed by debate over the Reconciliation, Unity and Tolerance Bill introduced by the government of Prime Minister Laisenia Qarase – in spite of the name, key provisions of the bill provide amnesty for 'political' crimes and government critics see this as a way of appealing to Fijian nationalist sentiment in the lead-up to national elections in 2006.

### **Solomon Islands**

After the July 2003 intervention by Australian and islander police and military forces under the Regional Assistance Mission to Solomon Islands (RAMSI), the military component of the force has been reduced in 2004–5. While Solomon Islanders largely welcomed RAMSI's work to end criminal activity by former militia members after 1998–2002 clashes between the Isatabu Freedom Movement (IFM) of Guadalcanal and the Malaita Eagle Force (MEF), the Solomon Islands is moving to the difficult stage of economic reform. Over the last year, indigenous landowners and church leaders have challenged proposals for privatization of public utilities and for land registration. NGOs like the Solomon Islands Development Trust (SIDT) have surveyed popular anxiety about the lack of basic services, especially in rural areas, while a November 2004 report by Amnesty International has documented ongoing violence against women, even though armed conflict has largely ended.

### **Pacific indigenous communities**

Faced with all these challenges, indigenous communities in the Pacific islands are organizing to reassert minority rights. A March 2004 regional consultation on the UN Permanent Forum for

Indigenous Issues, held in Nadave, Fiji Islands, brought together indigenous peoples from 15 Pacific nations. The consultation developed proposals for the Permanent Forum's Pacific representative, Mililani Trask of Hawai'i, to take to the UN forum in May 2004. Delegates also gathered at the University of the South Pacific in Fiji Islands in June 2005 for an important regional consultation on intellectual property rights, studying biopiracy and the use and ownership of human and biological genetic material.

Pacific governments are also considering legislation to increase the use of vernacular languages in education: Fiji Islands' government is moving to introduce Fijian and Hindi across the curriculum; Kanak Customary Senator Paul Jewine in the French territory of New Caledonia has proposed creation of a Kanak Language Academy; while the governments of the US territory of Guam and the Commonwealth of the Northern Marianas Islands (CNMI) are discussing a joint commission to preserve the minority Chamorro language. ■