

COMMENTARIES

PROMOTING A PACIFIC PACIFIC: A FUNCTIONAL PROPOSAL FOR REGIONAL SECURITY IN THE PACIFIC ISLANDS

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I PREFACE

Both historically¹ and contemporaneously, the South Pacific Region ('SPR')² has been host to an extensive amount of violence and conflict. Bougainville, Fiji, Papua New Guinea ('PNG'), New Caledonia, the Solomon Islands and Vanuatu have all had recent experiences of violence. This is to say nothing of the ongoing violence in the neighbouring areas of West Papua/Irian Jaya, and until recently East Timor, or of the corruption and nationalist sentiments threatening to escalate into violence in other parts of the Pacific.³ It is thus not surprising that the South Pacific Region has recently been characterised as 'the strife-torn region now described as Australia's arc of instability'.⁴ Despite desperate appeals for assistance⁵ and 'increasing incidents of civil unrest',⁶ the degree of assistance that can be extended by those states in a position to provide it has been curtailed by the lack of institutionalised regional arrangements. The paucity of existing arrangements can be explained by the unique characteristics of conflict and security in the South Pacific Region, as well as a range of political constraints that have traditionally acted as a barrier to regional responses to violent conflict. However, a rapidly changing security and political environment has opened up the possibility for a region-wide approach to address new and existing security threats. Despite these emerging opportunities, the complex legal status of many Pacific Islands raises troubling legal questions that need to be analysed before a framework for a regional security organisation can be properly broached.

¹ Stephen Henningham, *The Pacific Island States: Security and Sovereignty in the Post-Cold War World* (1995) 16. See also Stewart Firth, 'Australia and the Pacific Islands' in Richard Baker (ed), *The ANZUS States and Their Region: Regional Policies of Australia, New Zealand and the United States* (1994) 76, 76.

² For the purposes of this commentary, the SPR is defined as including American Samoa, Australia, the Northern Mariana Islands, the Cook Islands, Fiji, French Polynesia, Guam, Kiribati, the Marshall Islands, Micronesia, Nauru, New Caledonia, New Zealand, Niue, PNG, Palau, Pitcairn Island, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna, and Western Samoa.

³ See Mark Forbes, 'The Shaky Isles', *The Sydney Morning Herald* (Sydney, Australia), 17 August 2002, 28.

⁴ *Ibid.*

⁵ See Ben Bohane and Craig Skehan, 'PM Hides as Island Police Turn on Their Chiefs', *The Sydney Morning Herald* (Sydney, Australia), 8 August 2002, 10.

⁶ Thirtieth South Pacific Forum, *Forum Communiqué* (Koror, Palau, 3–5 October 1999) [41] SPF Doc SPFS(99)13 <<http://www.forumsec.org.fj/docs/Communique/1999%20Communique.pdf>> at 1 May 2003.

II AN OVERVIEW OF THE SPR

A Security

‘Security’ in the SPR has a particularly broad scope.⁷ As Rolfe observes, ‘[f]ew of the island states possess armed forces. For all of them, security comes through resource sustainability, the state of the environment and other “non traditional” security issues, all of which directly affect their economic viability’.⁸

Although security in the SPR extends well beyond the traditional military/defence paradigms, there is value in confining an analysis of security to purely military⁹ dimensions. This is because without a peaceful environment, it is not possible to address the other non-military components of security. Essentially, peace is a prerequisite for the effective implementation of other security measures. As the *Declaration by the South Pacific Forum on Law Enforcement Cooperation* stated, ‘balanced economic and social development, the primary goal of all the countries of the region, [can] not be achieved without the assurance of safety and security’.¹⁰

B *The Characteristics of Conflict in the SPR*

Security threats in the SPR are both external and internal; however, the latter tend to predominate.¹¹ The internal nature of conflict naturally raises difficult and sensitive questions of sovereignty. Article 2(4) of the *Charter of the United Nations* is pertinent in this regard. It states that

[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Notwithstanding the internal nature of conflict in the SPR, this is not an insurmountable obstacle to the establishment of a regional body to deal with security threats. The Pacific Island Forum’s (‘PIF’) *Biketawa Declaration on Regional Security Cooperation* recognised ‘the vulnerability of member

⁷ See Department of Foreign Affairs and Trade, Australia (‘DFAT’), *Annual Report 2000–01* (2001) 62; Australian Agency for International Development, *Annual Report 2000–01* (2001) 35; David Lange, ‘New Zealand’s Security Policy’ (1985) 63 *Foreign Affairs* 1009, 1013; Rosemary Reed, ‘Rising Seas and Disappearing Islands: Can Island Inhabitants Seek Redress under the Alien Tort Claims Act?’ (2002) 11 *Pacific Rim Law and Policy Journal* 399, 399.

⁸ Jim Rolfe, ‘The Prospects for Economic and Military Security in Australasia’ (1998) 33 *Journal of Asian and African Studies* 20, 25.

⁹ As discussed below, this should not be conceived of in conventional terms. A ‘military’ force suitable for the SPR could range from unarmed, civilian observers, to paramilitary police units.

¹⁰ Twenty-Third South Pacific Forum, *Declaration by the South Pacific Forum on Law Enforcement Cooperation* [2], annex to Twenty-Third South Pacific Forum, *Forum Communiqué* (Honiara, Solomon Islands, 8–9 July 1992) SPF Doc SPFS(92)18 <<http://www.forumsec.org.fj/docs/Communique/1992%20Communique.pdf>> at 1 May 2003 (‘Honiara Declaration’).

¹¹ Henningham, *The Pacific Island States*, above n 1, 27; Rolfe, ‘The Prospects for Economic and Military Security in Australasia’, above n 8, 39.

countries to threats to their security'.¹² Pacific Islands are vulnerable because of an absence of defence forces in all but five Pacific states.¹³ This in turn makes them amenable to certain types of assistance in quelling internal violence that are beyond their national capacities to contain. As will be detailed, in the past when the SPR has been faced with a security threat, most states have requested assistance, which often has not been forthcoming.¹⁴ When a government requests intervention this largely removes the art 2(4) restrictions on sovereign integrity. Thus it is political rather than legal considerations that tend to hinder the provision of extra-national assistance in meeting security threats.

However, external security threats in the SPR are minor in comparison to internal threats. Until recently, internal violence in Papua New Guinea has continued for more than a decade as a result of the Bougainvillian push for independence. If violence is organised (as it became in Bougainville), it places enormous strain on the Pacific Islands affected. As Vakatale observed, almost all island states 'do not even have the military and weapon capacity to defend themselves against an invasion by a well-armed, well-trained mercenary group'.¹⁵

Beyond the troubles in Bougainville, tribal and criminal violence has repeatedly erupted across greater PNG.¹⁶ National elections recently sparked widespread internal violence and severe miscarriages in the electoral process,¹⁷ and as Firth has observed, '[r]esource projects in other parts of the country, such as the alluvial gold mine at Mt Kare, have been subject to armed attack, and in the towns lawlessness is on an unprecedented scale'.¹⁸ The type of violence experienced in PNG has extended to other parts of the SPR, with clan and tribal violence and high levels of criminal activity a common feature in several Pacific Islands. The PIF's declarations and communiqués make repeated reference to the dangerous levels of criminal activity in the region, and, in 1999, the region's leaders 'noted with concern that ... the security environment had become more fluid', with 'increasing incidents of civil unrest'.¹⁹

Internal violence has also been a recurring phenomenon in Vanuatu, where paramilitary police have found it increasingly difficult to contain domestic uprisings.²⁰ Similarly, the Solomon Islands has quickly degenerated to crisis

¹² Thirty-First Pacific Islands Forum, *Biketawa Declaration* (Biketawa, Kiribati, 28 October 2000) [1(vi)], attachment 1 to Thirty-First Pacific Islands Forum, *Forum Communiqué* (Tarawa, Kiribati, 27–30 October 2000) <<http://www.forumsec.org.fj/docs/Communique/fc2000.pdf>> at 1 May 2003 ('*Biketawa Declaration*').

¹³ Henningham, *The Pacific Island States*, above n 1, 26.

¹⁴ See especially Twenty-Eighth South Pacific Forum, *Aitutaki Declaration on Regional Security Cooperation* (Aitutaki, Cook Islands, 18 September 1997) [8], annex 2 to Twenty-Eighth South Pacific Forum, *Forum Communiqué* (Rarotonga, Cook Islands, 17–19 September 1997) SPF Doc SPFS(97)13 <<http://www.forumsec.org.fj/docs/Communique/1997%20Communiqué.pdf>> at 1 May 2003 ('*Aitutaki Declaration*').

¹⁵ Taufa Vakatale, 'Military Security in Oceania' in David Hegarty and Peter Polomka (eds), *The Security of Oceania in the 1990s* (1989) 31, 31.

¹⁶ Firth, 'Australia and the Pacific Islands', above n 1, 81.

¹⁷ ABC Radio, 'Violence and Corruption Plague PNG Elections', *PM*, 2 July 2002 <<http://www.abc.net.au/pm/s596944.htm>> at 1 May 2003.

¹⁸ Firth, 'Australia and the Pacific Islands', above n 1, 81.

¹⁹ Thirtieth South Pacific Forum, above n 6, [41].

²⁰ Bohane and Skehan, above n 5, 10.

point following the June 2000 coup,²¹ to the extent that it has now become the first 'collapsed state' in the region.²² Fiji is also subject to periodic outbursts of internal violence between indigenous Fijians and Indo-Fijians, which has become associated with recurrent coups. This sporadic and often reactionary violence has the tendency to rapidly destabilise domestic security if left untreated. As the PIF's *Aitutaki Declaration* noted, 'security challenges could arise with little warning, and the region needs to be able to respond quickly'.²³

Notwithstanding the general absence of armed units, violence in the SPR can escalate to lethal levels, and expand beyond localised pockets. Strong clan and tribal identities in many parts of the SPR²⁴ mean that violence often has deep-seated roots, which can result in ongoing conflict. However, despite the intensity that this violence can assume, a reliance on homemade arms and limited supplies of small arms mean that these uprisings are relatively vulnerable to suppression by a well-planned, professional response. It also means that while violence has the potential to spread, if it is contained at an early stage, this can be prevented.

Henningham has elucidated a number of factors that have the potential to lead to violent internal conflict in the SPR. Citing in particular decolonisation, indigenous rights and secessionism as major current issues, he also points out that conflicts in the SPR often 'reflect economic, social, cultural and regional cleavages and rivalries'.²⁵

This characterisation of violence in the SPR has implications for the type of response required. Meeting small-scale, localised rioting and tribal infighting with heavily-armed combat soldiers is not only inappropriate, but is also likely to cause a reactionary escalation of the violence. As the then Australian Foreign Minister, Senator Gareth Evans, noted, '[w]e should bear in mind that in many situations it may be more appropriate to respond to a request for assistance [in the SPR] with a civilian rather than military capability'.²⁶ More recently Fry has observed that '[t]here has been a developing recognition that such tasks [interventions] in the region would be better undertaken by police rather than by the military'.²⁷ Building on what has already been said, this suggests that any 'military' response to violence in the SPR need not conform to traditional notions of what constitutes a military contingent.

²¹ Forbes, above n 3.

²² John Henderson and Paul Bellamy, 'Prospects for Further Military Intervention in Melanesian Politics' (2002) 164 *World Affairs* 124, 131.

²³ *Aitutaki Declaration*, above n 14, [6].

²⁴ See Bureau of Democracy, Human Rights and Labor, US Department of State, Country Reports on Human Rights Practices for 1996: Papua New Guinea (30 January 1997) <http://www.state.gov/www/global/human_rights/1996_hrp_report/papuanew.html> at 1 May 2003; Peter Larmour, 'Conclusions: Chiefs and States Today' in Lamont Lindstrom and Geoffrey White (eds), *Chiefs Today: Traditional Pacific Leadership and the Postcolonial State* (1997) 276, 276.

²⁵ Henningham, *The Pacific Island States*, above n 1, 67. See also Rodney Cole, 'Economic Constraints and Prospects in the South Pacific Island States' in Desmond Ball and Stephen Henningham (eds), *South Pacific Security: Issues and Perspectives* (1991) 23, 47; Ted Gaulin and Richard Matthew, 'Conflict or Cooperation? The Social and Political Impacts of Resource Scarcity on Small Island States' (2001) 1 *Global Environmental Politics* 48, 67.

²⁶ Gareth Evans, Minister for Foreign Affairs and Trade, 'Australia's Regional Security' (Ministerial Statement, December 1989) [87] <<http://www.dfat.gov.au/art/89minst2.html>> at 1 May 2003.

²⁷ Greg Fry, *South Pacific Security and Global Change: The New Agenda* (1999) 8.

C *New Threats to the Region*

Despite this brief account of the sources and characteristics of violence in the SPR, recent developments suggest that the types of violence faced by the SPR could soon change, rapidly altering the ability of many Pacific Island governments to cope with this shifting dynamic. As the PIF's *Honiara Declaration* noted, 'the scale of criminal activity affecting the region could expand'.²⁸ Kurlantzick has observed that 'East Asia, defined as the region between Burma [now Myanmar] and Fiji is becoming terrorism's next battleground',²⁹ and 'is only going to become more dangerous in the near future'.³⁰ He observed that the promulgation of terrorism by various organisations and the economic crisis faced by many of these states makes them nascent nurseries for terrorism.³¹ However, what is true of East Asia is also potentially true for most of the SPR. It is geographically enormous, making effective patrolling (with strained island budgets) almost impossible, thereby offering a secure haven for terrorist training. As the PIF's 2001 *Forum Communiqué* noted, 'there is clear evidence of serious transnational crime moving into the region and posing serious threats to the sovereignty, security and economic integrity of Forum members'.³²

Island economies are also economically underdeveloped, making them susceptible to manipulation from well-funded terrorist organisations. As the PIF's³³ *Honiara Declaration* stated, 'there is a risk the South Pacific Region may be targetted [sic] for money laundering activities as other regions become progressively less attractive for such activities'.³⁴ Changing social structures — a consequence of globalisation — also threaten to exacerbate tensions in the region, creating disenfranchised individuals vulnerable to terrorist recruiters.

A range of other changes also challenge regional security. These include the spread of pandemics such as AIDS,³⁵ and rising sea levels that threaten to increase the incidence of natural disasters and jeopardise essential water supplies.³⁶ These new challenges have the potential to foster civil unrest, exposing many island populations to terrorists set on exploiting these cleavages for ideological gain.

D *Unity in Diversity or Diversity Un-Unifiable?*

The various entities comprising the SPR appear prima facie to be an eclectic assortment of divergent islands distinguishable only by their geographic proximity to one another. There are Melanesians, Polynesians, Micronesians,

²⁸ *Honiara Declaration*, above n 10, [2].

²⁹ Joshua Kurlantzick, 'The Coming Hurricane: Terrorism on the Pacific Rim' (2001) 5(1) *Harvard Asia Pacific Review* 36, 36.

³⁰ *Ibid* 38.

³¹ *Ibid* 37–8.

³² Thirty-Second Pacific Islands Forum, *Forum Communiqué* (Nauru, 16–18 August 2001) PIF Doc PIFS(01)12 [38] <<http://www.forumsec.org.fj/docs/Communique/2001%20Communique.pdf>> at 1 May 2003.

³³ At the time it was the SPF, but is now the Pacific Islands Forum.

³⁴ *Honiara Declaration*, above n 10, [10].

³⁵ Praphan Phanupak, 'A Threat to Asia? AIDS in Asia and the Pacific' (2001) 5(2) *Harvard Asia Pacific Review* 30, 30.

³⁶ Reed, above n 7, 401–2.

Europeans, Americans and Chinese, to name just a few of the ethnicities and nationalities in the region. To this can be added influences from a sweeping range of colonial rulers that have governed different parts of the region, including Germany, Japan, the Netherlands and Spain; and those whose rule continues, including Australia, France, New Zealand, the United Kingdom and the United States. The relative population, land territory and economic wealth of the various entities is also widely divergent: for example, in the mid-1990s, Niue had a population of 2500, while Australia had one of 17 000 000; Nauru has a land area of 21 sq km, while Australia has one of 7 686 848 sq km.³⁷ In that decade, Kiribati had a GDP per capita of A\$654 while Australia and New Zealand had respective GDPs per capita of A\$18 500 and A\$14 500.³⁸ The various entities in the SPR do not even share similar degrees of political independence. In fact, the region has only 11 fully independent nation states³⁹ — the rest of the SPR is composed of nine remnant dependencies,⁴⁰ and five self-governing territories in free association with their former colonial rulers.⁴¹

However, despite the apparent differences between the SPR's 25 island entities, they share a striking number of similarities. In practice, these similarities facilitate and dominate their relations with one another.

An important common characteristic of all the region's entities is their shared colonial history, with every island coming under colonial occupation at some time.⁴² Perhaps most striking about this colonial history is the common values it has instilled. The SPR entities have been ruled by many different colonial powers; however, all were ruled for an extensive period (particularly in recent times) by Western European countries (and the US). This has resulted in broadly similar values, legal and political systems, fostering an easy compatibility between all SPR members. In discussing the PIF, Henningham observed that

[a]ll the island states are former colonies or protectorates of Australia, New Zealand, the United Kingdom or the United States, except for Vanuatu, which formerly was the Anglo-French Condominium of the New Hebrides. This background has left broad similarities in institutions and elite attitudes.⁴³

The SPR islands share broadly similar political systems. All 11 fully-independent nation states, which are also all members of the PIF, are former

³⁷ Henningham, *The Pacific Island States*, above n 1, 2.

³⁸ Ibid.

³⁹ Australia, Fiji, Kiribati, Nauru, New Zealand, PNG, Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa.

⁴⁰ New Caledonia, French Polynesia, Wallis and Futuna (French); American Samoa, the Northern Mariana Islands, Guam (US); Tokelau (New Zealand); and Pitcairn Island (UK).

⁴¹ These include the Cook Islands, the Marshall Islands, Micronesia, Niue and Palau. Many of these have the characteristics of independent states; however, because of their free-association agreements, are here grouped separately from fully independent nation states: see Michael Ntummy (ed), *South Pacific Islands' Legal Systems* (1993).

⁴² In fact, for some SPR islands decolonisation has not yet taken place, while others have become colonial occupiers themselves (Australia, PNG and New Zealand).

⁴³ Henningham, *The Pacific Island States*, above n 1, 14.

British colonies, or colonies of former British colonies⁴⁴ (except Vanuatu, which nevertheless has adopted the Westminster model of government).⁴⁵

Of the five entities governing in free-association with their former colonial rulers, all share broadly similar political cultures, derived from either the UK (via New Zealand administration) or the US.⁴⁶ Slightly more variation in political systems is discernible in the remaining nine dependencies, although all have clear common influences. Four countries are linked to France,⁴⁷ three to the US,⁴⁸ one to the UK⁴⁹ and one to New Zealand.⁵⁰

All SPR members, with the possible exception of Australia and New Zealand, have a direct interest in fostering a peaceful environment because of the threat that any reasonably organised militant force poses to their national security.⁵¹ Without the capacity to defend themselves, almost all SPR islands view the fostering of common values and interests as an essential basis of their own national security policy. Emphasising similarities can at the very least reduce the likelihood of inter-island conflict, and at best can help foster inter-island solutions to internal island conflict.

While Australia and New Zealand are not directly threatened by small-scale internal or external military uprisings, they still have a shared interest in 'the encouragement of shared perceptions of strategic and security interests', which act as a foundation for regional security.⁵² This is because, as regional powers, they are looked to restore peace and rebuild collapsed states. As Australia and New Zealand's recent experience in Bougainville and East Timor has highlighted, this is not an inexpensive venture.⁵³ It is thus clearly in Australia and New Zealand's best interest to foster values that will assist SPR security, because with any collapse of security, the burden for restoring stability and rebuilding infrastructure naturally falls to them.

The shared values, political cultures and interests that all Pacific Islands have fostered has led to an extensive amount of regional cooperation.

⁴⁴ These countries and their former colonial rulers include Australia (UK), Fiji (UK), Kiribati (UK), Nauru (Australia, NZ and the UK, although Australia was the effective administrator), New Zealand (UK), PNG (Australia), Solomon Islands (UK), Tonga (UK), Tuvalu (UK), Vanuatu (French-UK condominium) and Western Samoa (NZ).

⁴⁵ Ntuny, above n 41, 370.

⁴⁶ These countries and their free-association partners include the Cook Islands (NZ), Niue (NZ), the Marshall Islands (US), Palau (US) and Micronesia (US).

⁴⁷ The choice of this number is debatable. It is based on the assumption that although Wallis and Futuna are administered as a single colony, they are in fact separate entities. Futuna became a French protectorate in 1888. The King of Wallis, on the other hand, sought French protection in 1884, but it was not until 1913 that Wallis was attached to France: Ntuny, above n 41, 622. The other French dependencies include New Caledonia and French Polynesia.

⁴⁸ American Samoa, the Northern Mariana Islands and Guam.

⁴⁹ Pitcairn Island.

⁵⁰ Tokelau.

⁵¹ Henningham, *The Pacific Island States*, above n 1, 29.

⁵² Firth, 'Australia and the Pacific Islands', above n 1, 76.

⁵³ The two week multilateral peacekeeping force that went into Bougainville in 1995 cost the Australian Government A\$5 million: see Henningham, *The Pacific Island States*, above n 1, 27. New Zealand's provision of 30 soldiers to the Bougainville mission and the presence of the 25 Pacific Island staff cost NZ\$2 million every six months in 1999: see Campbell Gerard, 'Peace Mission Stays', *The Press* (Christchurch, New Zealand), 6 August 1999, 5.

E *The Scope of SPR Cooperation*

The SPR has established a host of diverse political, economic and cultural organisations. These include the PIF,⁵⁴ the South Pacific Commission ('SPC'),⁵⁵ and the South Pacific Organisations Coordinating Committee, which links a range of South Pacific agencies including the Forum Fisheries Agency, the South Pacific Regional Environmental Programme, the South Pacific Applied Geoscience Commission, the Pacific Islands Development Programme, the Tourism Council of the South Pacific and the University of the South Pacific.

Of this myriad of organisations, the PIF is the most important.⁵⁶ It was founded in 1971 as the SPF 'because an understanding had developed that common issues should be addressed from a regional perspective and that a collective regional voice [would have] greater weight in international affairs'.⁵⁷ Its only shortcoming is that it does not incorporate the entire SPR, limiting its membership to the independent and self-governing territories.⁵⁸ It has annual gatherings at the Heads of Government level where reports from the permanently established Secretariat, other regional organisations and committees are received and considered, ultimately leading to consensus decisions on policies and work program goals.⁵⁹

The SPC is older and more inclusive than the PIF.⁶⁰ It has 26 members, including colonial rulers (France, New Zealand and the US), independent Pacific Island states, self-governing territories, and other territories and islands.⁶¹ The New Zealand Ministry of Foreign Affairs and Trade defines its duties as being 'aimed at encouraging and promoting the economic and social development of the region'.⁶² However, the SPC's inclusive membership is also its greatest weakness. The divergent sovereign statuses of its broad membership mean that it cannot produce binding treaties, but must confine itself to 'advisory and consultative activities'.⁶³

Internal security issues have traditionally not been included on the agenda of either of the SPC or PIF, the two primary regional organisations. As Firth observed:

Like ASEAN [Association of South East Asian Nations], the Pacific Islands Forum had consistently avoided responding to the internal political and security problems of member states. The Forum did not mention Bougainville in its annual

⁵⁴ The PIF comprises independent and self-governing territories including Australia, the Cook Islands, Fiji, Kiribati, the Marshall Islands, Micronesia, Nauru, New Zealand, Niue, PNG, Palau, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu; with New Caledonia participating as an observer.

⁵⁵ The SPC comprises 26 members including independent states, self-governing territories, other territories and islands as well as the region's remaining colonial powers, France and the US.

⁵⁶ Rolfe, 'The Prospects for Economic and Military Security in Australasia', above n 8, 31.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ The SPC was founded in 1947 by the former colonial powers of Australia, France, the Netherlands (withdrew in 1962), New Zealand, the UK (withdrew in 1995) and the US: *ibid.* 32.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

communicate until 1997, and then only to note progress in achieving peace ... First-order security issues such as secession, civil war and coups d'état were treated as internal problems.⁶⁴

However, this tradition of sensitivity to sovereignty concerns has recently been changing. Since 1992, the PIF in particular has concerned itself with internal and external security issues, or spawned other organisations to deal with specific security concerns.⁶⁵ The PIF's *Biketawa Declaration* 'was acclaimed as a breakthrough',⁶⁶ overturning 'a 30-year tradition of non-interference'⁶⁷ and, in Australian Prime Minister John Howard's words, signalled 'a quantum leap forward in relevance' for the PIF.⁶⁸

The PIF's *Honiara Declaration* had recognised that '[a]n adverse law enforcement environment could threaten the sovereignty, security and economic integrity of Forum members and jeopardise economic and social development'.⁶⁹ However the *Biketawa Declaration* goes much further and 'commits Forum leaders to key guiding principles',⁷⁰ including 'upholding democratic processes and institutions, which reflect national and local circumstances, including the peaceful transfer of power, the rule of law, and the independence of the judiciary'.⁷¹ Firth has summarised the members' commitment under the *Biketawa Declaration* to take action when security threats arise in the territory of other PIF members as follows.

The PIF would begin by assessing the situation, consulting with the national authorities and advising PIF foreign ministers. It might subsequently do as little as issuing a statement, or as much as convening a special PIF meeting that might go to the extent of implementing 'targeted measures'. In between, it could come up with initiatives such as convening an 'eminent persons group', sending a fact-finding mission or organising mediation of the conflict by neutral third parties.⁷²

Predictably, the *Biketawa Declaration* made careful note of 'respecting the principle of non-interference in the domestic affairs of another member state'.⁷³ However, its overall content reflects a marked shift in the focus of the PIF to one that now deals openly with internal security threats at a regional level. Significantly, it states that 'Forum Leaders recognised the need in time of crisis or in response to members' request for assistance, for action to be taken on the basis of all members of the Forum being part of the Pacific Islands extended

⁶⁴ Stewart Firth, 'A Reflection on South Pacific Regional Security, Mid-2000 to Mid-2001' (2001) 36 *Journal of Pacific History* 277, 278.

⁶⁵ The PIF's *Honiara Declaration* was issued in 1992; the next major declaration on regional security did not come until 1997. Although the Forum has only ever issued declarations (which are not binding under international law), their content has been significant as a reflection of the PIF's concerns and plans of action.

⁶⁶ Firth, 'A Reflection on South Pacific Regional Security', above n 64, 279.

⁶⁷ 'Pacific Islands Security *Communique* to be Unveiled Today', *Australian Associated Press Newsfeed*, 30 October 2000.

⁶⁸ Howard, cited in Firth, 'A Reflection on South Pacific Regional Security', above n 64, 279.

⁶⁹ *Honiara Declaration*, above n 10, [1].

⁷⁰ Firth, 'A Reflection on South Pacific Regional Security', above n 64, 278.

⁷¹ *Ibid* 278–9.

⁷² *Ibid* 279.

⁷³ *Biketawa Declaration*, above n 12, [1].

family',⁷⁴ further opening the door to the possibility of a more advanced regional approach to security threats in future. The PIF's 2002 *Forum Communiqué* noted the success of the *Biketawa Declaration*, which led to 'the first ever Forum Elections Observer Mission to observe the 2001 Solomon Islands elections ... [and] an Eminent Persons Group visit to Solomon Islands'.⁷⁵ In the PIF's own words, this 'signals an increasingly proactive role by the Forum in maintaining peace and stability in the region'.⁷⁶

A broad range of other institutions have already been created to address regional security issues. Annual security discussions occur at the South Pacific Chiefs of Police Conference. There is a Forum Regional Security Committee, a regular Pacific Island Law Officers Meeting, a Customs Head of Administration Regional Meeting, and the first Pacific Region Transnational Crime Seminar was held in 2001.⁷⁷ Recent proposals also include a three-day peacekeeping forum, and funding to assist PIF members to secure their armouries.⁷⁸ Other security initiatives include the creation of the South Pacific Nuclear-Free Zone⁷⁹ and the Pacific Patrol Boat Project ('PPBP').

The PPBP is of particular significance in the context of regional security. The *Fiji Declaration on Island States in the New Millennium* observed that '[f]or the island states, their EEZs [Exclusive Economic Zones] represent their most significant sources of future wealth and security'.⁸⁰ However, it then asserts that 'SIDS [Small Island Developing States] have little capacity for surveillance and enforcement of their rules and regulations in their vast EEZs'.⁸¹ In response to the inability of many SPR entities to effectively monitor their EEZs (which cover an area of some 33 000 000 sq km),⁸² the PPBP was developed. The role of the PPBP is to 'provide Pacific Island countries with a visible and effective maritime surveillance capability, as well as a search-and-rescue capability'.⁸³ In the context of regional security, the PPBP is perhaps less significant from the point of view of its function than it is from the scale, cost and directorship of this operation. The PPBP is an enormous undertaking, involving 22 patrol boats, and recently injected with a funding boost from Australia of A\$350 million over 25 years, coordinated with the assistance of the Australian Defence Force ('ADF'), but operated largely by other Pacific Islands in a decentralised manner.⁸⁴ As Australian Minister for Defence John Moore observed '[i]t is the most successful

⁷⁴ Ibid [2].

⁷⁵ Thirty-Third Pacific Islands Forum, *Forum Communiqué* (Suva, Fiji, 15–17 August 2002) PIF Doc PIFS(02)8 [15] <<http://www.forumsec.org.fj/docs/Communique/2002%20Communique.pdf>> at 1 May 2003.

⁷⁶ Ibid.

⁷⁷ See First Pacific Region Transnational Crime Seminar, *Communiqué* (Brisbane, Australia, 4–8 December 2000) <<http://www.forumsec.org.fj/docs/Communique.htm>> at 1 May 2003.

⁷⁸ Thirty-Second Pacific Islands Forum, above n 32, [62].

⁷⁹ See Henningham, *The Pacific Island States*, above n 1, xxiii.

⁸⁰ *Pacem in Maribus XXVII* Conference, International Ocean Institute, *Fiji Declaration on Island States in the New Millennium* (Suva, Fiji, 8–12 November 1999) [1999] South Pacific Treaties 1, art 3.

⁸¹ Ibid art 8.

⁸² Ibid art 1.

⁸³ John Moore, Minister for Defence, Australia, 'Pacific Patrol Boat Project Extended' (Press Release, 30 October 2000).

⁸⁴ Ibid.

Defence Cooperation projects [sic] we have undertaken and is a powerful symbol of Australia's strategic partnership with the South Pacific region'.⁸⁵

A changing security and political environment has resulted in a dramatic shift in direction by the PIF, to the extent that its agenda now not only includes discussion of internal security issues, but also takes active measures to address these. Firth offers an explanation for this transition, arguing that against the backdrop of the well-publicised coups in Fiji and the Solomon Islands, '[s]maller states also have an interest in regional political stability, because events in one major country can give the whole region a bad name among tourists and potential investors'.⁸⁶ Other explanations include the fear that many island governments have regarding their inability to cope with future security threats and the interrelated nature of the SPR, which means that conflict in one island directly affects trade and security in others. The interest of Australia and New Zealand in reducing the cost to themselves of regional conflict is also an important consideration in explaining the PIF's shift in thinking, as are receding fears of neo-colonial expansion.

F *Previous Pacific Island Ad Hoc Peacekeeping Operations and the Bougainville Truce Monitoring Group*

There has been a recurring yet sporadic history of multilateral peacekeeping operations in the SPR since 1980. In that year, the then Prime Minister of Vanuatu requested the intervention of troops of regional states to head off the secessionist movement on the island of Esperitu Santo.⁸⁷ In response to this, PNG and Australia intervened with the assistance of Ni-Vanuatu police to restore order. This led PNG's Prime Minister, Sir Julius Chan, to propose 'the establishment of a regional peacekeeping force under the aegis of the South Pacific Forum'.⁸⁸ Although this idea was not actively pursued, it has sporadically re-emerged.⁸⁹ In the absence of any formal arrangements, various ad hoc regional coalitions have been formed in response to a limited number of regional conflicts.

The next multilateral regional peacekeeping operation did not take place until 1994. Following the signing of a ceasefire by Sir Julius Chan, Sam Kauona, the leader of the Bougainville Revolutionary Army, and Prime Minister Billy Hilly of the Solomon Islands, a peace conference was planned in Bougainville's main town of Arawa for October, which Chan suggested should be supervised by a Pacific peacekeeping force. The idea gained popularity, and Fiji, Tonga and Vanuatu provided troops, while Australia and New Zealand provided training and logistical support.⁹⁰ Australia bore the main financial cost, which was estimated to have cost over A\$5 million for the two-week operation.⁹¹ As Rolfe observed, perhaps the most significant outcome of the peace conference was the

⁸⁵ Ibid.

⁸⁶ Firth, 'A Reflection on South Pacific Regional Security', above n 64, 277.

⁸⁷ Jim Rolfe, 'Peacekeeping the Pacific Way in Bougainville' (2001) 8 *International Peacekeeping* 38, 40.

⁸⁸ Henningham, *The Pacific Island States*, above n 1, 27.

⁸⁹ See *ibid*; Vakatale, above n 15, 34.

⁹⁰ Rolfe, 'Peacekeeping the Pacific Way', above n 87, 45.

⁹¹ Henningham, *The Pacific Island States*, above n 1, 27.

discovery that ‘this kind of event could be conducted without extra-regional assistance’.⁹²

The next SPR peacekeeping-style operation began three years later in 1997, and was known as the Truce Monitoring Group (‘TMG’), created to monitor the implementation of the ceasefire in Bougainville. The TMG (now the Peace Monitoring Group (‘PMG’)) reached the highpoint of regional peacekeeping to date, and so will be examined in detail to highlight the benefits that a Pacific peacekeeping operation can offer.

Like previous Pacific peacekeeping units deployed in 1980 and 1994, the TMG had the consent of the sovereign state concerned (PNG), thus avoiding any international legal complications in that regard (ie breaches of sovereignty). The operation was planned and deployed by New Zealand Brigadier Roger Mortlock, and was composed of 300 personnel including support and ancillary staff.⁹³ The New Zealand approach during the talks that led to a peace agreement between the parties⁹⁴ and eventually to the creation of the TMG were firmly based on what Fijian leader Ratu Sir Kamisese Mara coined the ‘Pacific Way’.⁹⁵ This advocates

Pacific solutions to Pacific problems and requires indigenous leaders to unlearn Western ways of conflict resolution. The Pacific Way requires ‘unanimous compromise’ which means that ‘some are expected when possible to endure personal sacrifice so that the community as a whole will have harmony’.⁹⁶

Pursuing this philosophical paradigm, Brigadier Mortlock ‘chose not to adopt any doctrinal peacekeeping solution. Instead, he decided to work out what was needed from first principles and persuade others that this would work’.⁹⁷

The TMG was made up of four teams of approximately 20 personnel, with each team monitoring and reporting on the implementation of the *Burnham Declaration* for their assigned territorial area.⁹⁸ Rolfe observed that a

‘typical’ team might include 11 New Zealand military, including eight Maori; three Fijians including the team commander; two officers from Vanuatu; and five Australian civilians from the police, foreign affairs and defence arenas. Perhaps three would be women.⁹⁹

This broad mixture of personnel proved particularly effective. Kauona, the leader of the Bougainville Revolutionary Army, later observed that the Bougainvilleans could

see the involvement of Maori in the TMG and the level of respect within the defence forces for the Maori. The Fijians and Nivans [from Vanuatu] in the TMG

⁹² Rolfe, ‘Peacekeeping the Pacific Way’, above n 87, 45.

⁹³ Ibid 49.

⁹⁴ *Burnham Truce* (Burnham, New Zealand, 10 October 1997) <<http://rspac.anu.edu.au/melanesia/PDF/burnhamtruce.pdf>> at 1 May 2003, implementing the *Burnham Declaration* (Burnham, New Zealand, 18 July 1997) <<http://www.defence.gov.au/bougainville/background/burnham.htm>> at 1 May 2003.

⁹⁵ Rolfe, ‘Peacekeeping the Pacific Way’, above n 87, 39.

⁹⁶ ‘Unanimous compromise’ means that ‘some are expected when possible to endure personal sacrifice so that the community as a whole will have harmony’: cited in *ibid* 39.

⁹⁷ Ibid 49.

⁹⁸ Ibid 50.

⁹⁹ Ibid.

helped because they have similar ways of thinking and the Pacific Island members were well distributed. People saw the Melanesian people and said ‘that’s good. We accept them’. And that helped accept the whole group.¹⁰⁰

The inclusion of women in the monitoring teams was also a significant factor in the success of the TMG. As one scholar observed, the inclusion of women ‘was significant because in Bougainville’s matrilineal society women had been working towards peace for some time’.¹⁰¹ The women in the TMG teams were able to help revive the previously existing myriad of women’s organisations, and were also better able to make contact with Bougainvillian women who saw ‘the real priorities for Bougainville: education, health care and jobs’,¹⁰² rather than political independence.¹⁰³ This enlightened gender mix could have similarly productive influences in other matrilineal Pacific Island cultures.

The TMG was in general terms a success. ‘By the end of the first three-month tour of the TMG there was good knowledge, good relations between factions, and people were moving back into the villages’.¹⁰⁴ The TMG’s work was later extended to include ‘life skills patrol’, followed by skill development and reconstruction, which continues today,¹⁰⁵ although on a reduced scale, with only 195 personnel from Australia, Fiji, New Zealand and Vanuatu still involved.¹⁰⁶

The diverse skills, abilities and resources of the various Pacific states that the TMG incorporated highlighted the potential of SPR peacekeeping. When Australian leverage as a peace mediator was undermined as a consequence of its perceived ties with PNG (as its former colonial ruler and arms supplier),¹⁰⁷ New Zealand (the other regional heavyweight) entered as an independent third party. New Zealand also utilised its traditional Maori culture and cultural sensitivity to promote the ‘Pacific Way’ of peace negotiation, thus avoiding the inherent problems that Western-style approaches to peace settlements have in a Pacific context. The fact that TMG personnel were unarmed also underpinned the mission’s success.

The TMG’s success meant it was used as an initial model for the small-scale peacekeeping operation in the Solomon Islands in 2000–01.¹⁰⁸ This monitoring unit, known as the International Peace Monitoring Team (‘IPMT’), provided ‘support to the peace process under the auspices of an indigenous Peace Monitoring Council’ (‘PMC’).¹⁰⁹ The IPMT was an unarmed group tasked with ‘the supervision of the surrender of weapons, the conduct of regular inspections of the stored weapons, confidence building within affected Solomon Islands communities and reporting to the PMC’.¹¹⁰ The Australian Foreign Minister observed the success of the IPMT in ‘assisting the PMC in bringing about a

¹⁰⁰ Jim Rolfe, Interview with Sam Kauona: *ibid.*

¹⁰¹ *Ibid.*

¹⁰² Janet Castell, cited in *ibid.* 51.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ DFAT, above n 7, 60.

¹⁰⁷ Radio Australia/BBC, ‘Bougainville: Secessionist Military Leader Criticises Arrangements for Peacekeeping Force’, 21 September 1994.

¹⁰⁸ Rolfe, ‘Peacekeeping the Pacific Way’, above n 87, 39.

¹⁰⁹ DFAT, above n 7, 110.

¹¹⁰ *Ibid.*

virtual end to ethnic conflict, the surrender of many weapons, and the subsequent emergence of community confidence'.¹¹¹ In 2000–01, Australia had 34 government personnel deployed on peace monitoring activities in the Solomon Islands and provided A\$2.765 million in funding for the IPMT's operations. New Zealand contributed 28 per cent of the IPMT budget, with other Pacific Islands and the Commonwealth of Nations Secretariat providing the remainder.¹¹² However, despite the existence of the IPMT, the delayed and inadequate response to the Solomon Islands crisis has caused it to become a 'collapsed state'.

In addition to these multilateral Pacific peacekeeping operations, many Pacific Island states are active participants in other international peacekeeping operations. In 2000–01, Australia was involved in 14 international peacekeeping operations at a cost of over A\$131 million.¹¹³ Since 1987, New Zealand has increased its peacekeeping contributions to UN missions from fewer than 40 to over 2000 personnel, involved in 13 operations.¹¹⁴ Fijian units have also 'served with distinction in international peacekeeping operations'.¹¹⁵ However, the absence of any other defence forces (outside of PNG and Tonga)¹¹⁶ has prevented other Pacific Islands from actively engaging in regular international peacekeeping operations.

G *Constraints and Shortcomings of Ad Hoc Peacekeeping and Monitoring Arrangements*

The present security crises facing several SPR islands and an analysis of previous peacekeeping or monitoring operations reveals a number of inherent, and often crippling, constraints associated with ad hoc responses. There have been numerous security crises across the Pacific's often-violent history, but few peacekeeping interventions. There have also been frequent calls for assistance to quell uprisings that exceed island states' defence capabilities;¹¹⁷ however, even with requests for intervention, several constraints prevent neighbours from being able to provide assistance. Past ad hoc regional peacekeeping efforts, while revealing the potential quality and benefits of regional peacekeeping operations, also highlight the many inadequacies inherent in leaving planning to the last moment.

There have been several clearly identifiable cases of armed conflict in the recent history of the SPR.¹¹⁸ These include secessionist violence in Vanuatu (1980), border troubles between PNG and Indonesia (1984), self-determination related violence in New Caledonia (1984–85), the Fijian coups (1987 and 2000), Bougainville's independence attempts (1989 onwards), ethnic violence in the

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid 326.

¹¹⁴ Jim Rolfe, 'New Zealand and Peacekeeping' (2001) 26 *New Zealand International Review* 2, 4.

¹¹⁵ Henningham, *The Pacific Island States*, above n 1, 26.

¹¹⁶ Ibid.

¹¹⁷ Bohane and Skehan report the appeal from the Solomon Islands Police Minister on the 27 August 2002: Bohane and Skehan above n 5, 10.

¹¹⁸ This excludes armed conflict in West Papua and East Timor.

Solomon Islands (1998 onwards)¹¹⁹ and sporadic tribal and election violence in PNG (1990s onwards).¹²⁰ As Rolfe observed, 'most of these events were not solved by peacekeeping processes as we understand them today'.¹²¹ Only in one of these instances were calls for assistance met upon the outbreak of violence (Vanuatu in 1980). Multilateral peacekeeping or monitoring groups were used in two other instances (Bougainville and the Solomon Islands); however, in both cases this was long after the outbreak of devastating violence.

In Bougainville, the first peacekeeping force did not arrive until five years after the outbreak of armed conflict, and then stayed only two weeks. Comprehensive regional assistance did not arrive until almost a decade after violence first erupted, by which time the destruction of the island was almost complete.

In the Solomon Islands, the IPMT was also too little, much too late. As Forbes observed,

[a]ccording to local figures, Australia lost its one chance to save the Solomons when it sailed a warship into the harbour after the June 2000 coup. The prospect of facing elite troops caused many of the untrained rebels to flee, but the ship was instead used to evacuate Australians, emboldening the militias.¹²²

Former Australian Defence Minister Kim Beazley stated that

the ADF's requirements for the defence of Australia ... [are] so large that the capabilities we develop to meet those requirements tend to have sufficient mobility to be deployed widely throughout South-East Asia and the South West Pacific if we wish.¹²³

Based on this assumption it could be argued that any regional peacekeeping arrangements would be superfluous, because Australia (and to a lesser extent New Zealand) would be able to meet any request for assistance unilaterally. However, the ongoing failure of these regional powers to meet requests for assistance, and past regional peacekeeping missions' need to be multilateral, highlight the flaws in this contention.

Furthermore, important constraints operate on the two major regional powers, Australia and New Zealand. In general terms, they must operate within the confines of international law, which has enshrined the sovereign integrity of states. The two regional powers are also curtailed by the PIF which 'reinforces the legitimacy of even the smallest and weakest of island states, and provides a constraining framework on Australian and New Zealand involvement in regional affairs'.¹²⁴ Most significant is the fact that any unilateral action by Australia or New Zealand threatens to undermine their own legitimacy in the region, and hence their capacity to promote their national interests. This species of constraint can manifest itself at the political and security levels. The 1987 coup in Fiji

¹¹⁹ Rolfe, 'Peacekeeping the Pacific Way', above n 87, 40.

¹²⁰ See Radio Australia/BBC, above n 107; Reuters, 'Police Reinstated So They Can Help Investigate Themselves for Mutiny', *The Sydney Morning Herald* (Sydney, Australia), 7–8 September 2002, 15.

¹²¹ Rolfe, 'Peacekeeping the Pacific Way', above n 87, 40.

¹²² Forbes, above n 3.

¹²³ Cited in Firth, 'Australia and the Pacific Islands', above n 1, 87.

¹²⁴ Henningham, *The Pacific Island States*, above n 1, 121.

highlighted the political dimension. On the one hand, Australia had sought to assert its commitment to democratic governance, while simultaneously preserving its influence in the Pacific, a feat that proved too difficult in the face of uniform sympathy for the 1987 coup on behalf of all other Pacific island leaders.¹²⁵ However, forceful intervention into other island states, even upon request, is similarly vexed, because intervention raises criticisms of neo-colonialism, while inaction raises accusations of failing to avert a humanitarian crisis.

Considering the ‘most difficult question’ of what New Zealand should do if asked by another Pacific Island government to intervene,¹²⁶ the Pacific Policy Review Group concluded that ‘New Zealand should defer any decision until consultations had taken place with other Pacific Island governments with a view to devising a regional response’.¹²⁷ This was because ‘it is clearly desirable to avoid a situation where New Zealand, one of the larger and predominantly European states of the region, is open to the charge of “interference” in a neighbouring state’s domestic problems’.¹²⁸ As Henningham observed, ‘the power and influence of Australia and New Zealand in the Pacific Islands region is limited and restrained in several ways. So although they remain important players in regional affairs, they are not in a position to play a dominant role’.¹²⁹

The composition of previous regional peacekeeping or monitoring operations further reflects these constraints. Despite the fact that Australia and New Zealand have by far the largest and best-equipped defence forces in the region, they have not been proportionately represented in peacekeeping operations. During the intervention in Vanuatu, Australian troops also operated alongside troops from PNG and police from Vanuatu. The 1994 Bougainville peacekeeping corps was made up of troops from Fiji, Tonga and Vanuatu. The TMG was also composed of a broad mix of islanders that relegated Australians and Pakeha (non-Maori) New Zealanders to a minority.

The multilateral composition of previous peacekeeping groups could reflect one of two things. It could imply the reluctance of Australian and New Zealand governments to commit their own personnel to dangerous environments, or the need for them to avoid accusations of hegemony, neo-colonialism or interference. The former contention is untenable given both countries’ strong and contiguous commitments to international peacekeeping operations, and Australia’s regular involvement in international armed conflict. As a consequence of these constraints the two powers have tended to finance regional peacekeeping operations, which then receive their legitimacy through the joint participation of other Pacific Island states.¹³⁰

In view of the constraints operating upon Australia and New Zealand, it could be argued that the US and France would be suitable candidates to replace them in

¹²⁵ Firth, ‘Australia and the Pacific Islands’, above n 1, 88.

¹²⁶ John Henderson, ‘New Zealand’s Policy toward the Pacific Islands’ in Richard Baker (ed), *The ANZUS States and Their Region: Regional Policies of Australia, New Zealand, and the United States* (1994) 91, 99.

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ Henningham, *The Pacific Island States*, above n 1, 135.

¹³⁰ Fry notes Australia’s preference for multilateral forces: Fry, *South Pacific Security and Global Change*, above n 27, 8.

the provision of assistance during national emergencies in the SPR. However, they are faced with even greater constraints. Although the US has, since the late 1970s, begun to significantly engage in Pacific affairs, this has been to a far lesser extent than either Australia or New Zealand. As Kiste observed, 'the US perception of its global role and responsibilities has made it evident that US priorities elsewhere are more important to it'.¹³¹ The French on the other hand, with a history of repressing self-determination movements in the region, are vulnerable to accusations of 'interference' and neo-colonialism.

Existing arrangements present clear pitfalls. The arrangements mean that any regional peacekeeping operation must be hurriedly thrown together. As a consequence, group training will inevitably be inadequate, and because of the need to avoid the perception of neo-colonialism, some of the region's best-trained and equipped personnel are not able to participate in operations. The fact that Australia and New Zealand are the only regional actors capable of launching and funding an intervention individually means that regional consensus authorising such intervention may be avoided or delayed because of fears that such action could spark a resumption of colonial domination.

H *Consequences of Present Security Arrangements*

There is a clear lacuna in present security arrangements in the SPR. This creates a host of problems for all Pacific entities, problems that are likely to multiply in future. The inadequacy of present arrangements threatens to encourage new forms of violence in the region, promote coups, create widespread destruction of infrastructure, cripple already failing island economies, require larger and more costly peacekeeping operations, and place the enormous cost of rebuilding and of providing humanitarian assistance largely on the regional powers, Australia and New Zealand.

1 *New Forms of Armed Conflict*

In 2001, the PIF recognised in its annual *Forum Communiqué* that '[t]here is clear evidence of serious transnational crime moving into the region and posing serious threats to the sovereignty, security and economic integrity of Forum members'.¹³² Terrorism has come to be somewhat of a buzzword, but it threatens to develop into a real problem in parts of the SPR. In late 2002, Australia was forced to close its embassy in East Timor because of suspected terrorist threats,¹³³ and in October a terrorist attack hit neighbouring Bali; both events highlight the vulnerability of the Pacific to terrorist organisations. As discussed, the SPR is an ideal base for terrorist activities, while the potential cost of an attack to islands, dependent on tourism and foreign investment for their livelihood, is enormous.

¹³¹ Robert Kiste, 'The United States and the Pacific Islands' in Richard Baker (ed), *The ANZUS States and Their Region: Regional Policies of Australia, New Zealand, and the United States* (1994) 107, 121.

¹³² Thirty-Second Pacific Islands Forum, above n 32, [38].

¹³³ See MMM Radio, Interview with Alexander Downer, Minister for Foreign Affairs, Australia, 'Terror Threats [sic] South East Asia' (Telephone interview, 10 September 2002) <http://www.dfat.gov.au/media/transcripts/2002/020910_fa_securityupgrade.html> at 1 May 2003.

In 1990, Fry argued that '[t]he only security problems which are both likely to occur and which may attract a "regional peacekeeping approach" are internal'.¹³⁴ Despite the existence of a need for such a force in 1989, it nevertheless failed to eventuate. Almost 15 years later this position clearly needs revision, and concomitant to this is the need to review the possibility of establishing a regional approach to security problems.

2 *The Increased Risk of Coups*

In an analysis of coups in Melanesia, Henderson and Bellamy concluded that '[t]he region faces a period of chronic instability in which the military is likely to be an active participant. The inhibiting factors are unlikely to be strong enough to prevent this'.¹³⁵ They cite PNG, the Solomon Islands and Fiji as countries faced with the threat of future coups,¹³⁶ however, their contention that '[t]he literature on coups suggests that a successful coup may well provoke further coups in the same region'¹³⁷ warns that other governments in the SPR are also at risk.

The three major factors inhibiting coups are the military's professionalism, the risks that intervention into the political domain entails, and the likely response of external powers. Many island governments depend on the military for their continued hold on power, reducing their professionalism and thereby increasing the risk of a coup.¹³⁸ The small or non-existent national armies and police forces make the risks associated with staging a coup low; and external intervention has been shown to be unlikely. Thus, according to Henderson and Bellamy, the incidence of coups in Melanesia and the Pacific as a whole is likely to increase.

3 *Destruction of Population, Infrastructure and the Collapse of Economies*

The case of East Timor's transition to independence highlights the consequences of delayed intervention. Following the popular consultation, the entire territory was razed. Australian Senator Marise Payne observed after one of her fact-finding tours that East Timor had become 'an enormous clean-up task, and [an] enormous reorganisation task'.¹³⁹ Similar destruction was met in Bougainville, where up to 50 000 people were killed¹⁴⁰ at least one-quarter of the population,¹⁴¹ and up to one-third of the population was forced into government refugee camps.¹⁴² In the Solomon Islands, recurring violence and instability have caused it to become the region's first 'collapsed' state.¹⁴³

¹³⁴ Greg Fry, 'Peacekeeping in the South Pacific: Some Questions for Prior Consideration' (Working Paper 1990/7, Department of International Relations, Australian National University, 1990) 16.

¹³⁵ Henderson and Bellamy, above n 18, 131.

¹³⁶ *Ibid* 127–8.

¹³⁷ *Ibid* 128.

¹³⁸ *Ibid* 130.

¹³⁹ Marise Payne, 'Timor — East and West' (2000) 12 *The Sydney Papers* 7, 9.

¹⁴⁰ Rolfe, 'Peacekeeping the Pacific Way', above n 87, 43.

¹⁴¹ *Ibid* 41.

¹⁴² *Ibid* 43.

¹⁴³ Henderson and Bellamy, above n 22, 131.

Not surprisingly, armed conflict has a devastating impact on the state concerned. Henderson and Bellamy noted '[a] recent study concluded that, on the basis of the Fiji experience, coups reduced the [per] capita output for the following year by 14 percent. The impact on investment was even greater — producing a decline of 40 percent'.¹⁴⁴

4 *The Cost to Regional Powers*

Australia and New Zealand are looked to for rebuilding conflict-torn SPR entities. This is reflected in the fact that Australia gives far more aid (on a per capita basis) to the South Pacific than to any other region,¹⁴⁵ and that in 2002, '[o]ver three-quarters of Australia's aid program's major bilateral programs [operated] in countries that are vulnerable to, experiencing or recovering from conflict'.¹⁴⁶ More specifically, Australia and New Zealand bore disproportionately large shares of the costs of rebuilding Bougainville, PNG and East Timor. This reality is unavoidable because it is both a consequence of their strategic interest in maintaining regional stability¹⁴⁷ and international pressure on them to take responsibility to avert humanitarian disasters and rebuild conflict-ridden areas in their region. Avoiding the costs of regional conflict (by preventing its escalation) would be the most favourable option for both of these countries and would accord with present government policies. In July 2002 for example, Palu noted that 'Australia's new Peace, Conflict and Development Policy will increase [its] aid [program's] focus on preventing conflict and building peace'.¹⁴⁸

An absence of formal regional security arrangements evidently has detrimental consequences to all SPR entities. An argument thus emerges in favour of revising and developing present regional security arrangements. A new understanding that regional responses are often needed to address internal security crisis has introduced the possibility of establishing a permanent regional peace maintenance team. Maintaining the status quo would entail more hazardous security threats in future and a consequent increase in human suffering and financial burden to both small and large SPR entities. This paper does not suggest that every Pacific Island currently seeks the establishment of a peace maintenance team; it does however, suggest that such a team is in the best interests of all SPR entities.

III A PROPOSAL FOR A PACIFIC PEACE MAINTENANCE GROUP

In response to the apparent need to revise existing SPR security arrangements, the following is an attempt to outline the legal and pragmatic framework for a functional Pacific Peace Maintenance Group ('PPMG'). Having outlined the general legal framework within which regional security arrangements must function, an analysis of the specific legal and financial capabilities of the various

¹⁴⁴ Ibid.

¹⁴⁵ Firth, 'Australia and the Pacific Islands', above n 1, 83.

¹⁴⁶ Mark Palu, Counsellor, Permanent Mission of Australia to the UN, 'Strengthening of the Coordination of Emergency Humanitarian Assistance of the United Nations' (Press Release, 15 July 2002).

¹⁴⁷ Firth, 'Australia and the Pacific Islands', above n 1, 76; Henderson, above n 126, 96.

¹⁴⁸ Palu, above n 146.

SPR entities will follow. With these legal and practical considerations in mind, it will then be possible to detail a workable proposal for a PPMG.

A *Legal Basis for Collective Security Arrangements and
Relevant Recent Trends*

Chapter VIII of the *UN Charter* makes express provision for the establishment of collective regional security arrangements. Article 52(1) states that

nothing in the present *Charter* precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

Chapter VIII thus allows for the formation of regional organisations provided they operate and exist within a specified legal framework. The most obvious consequence of the final caveat of art 52(1) — that such organisations be consistent with the purposes and principles of the UN — is that the PPMG must confine its operations to those actions and activities that are consistent with art 2(4).

Article 2(4) states that '[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state'. Commenting on art 2(4), the International Law Commission has asserted that 'the law of the *Charter* concerning the prohibition of the use of force in itself constitutes a conspicuous example of a rule in international law having the character of *jus cogens*'.¹⁴⁹ Any Pacific regional security arrangement would therefore need the consent of the state on whose territory the PPMG was to operate.

Article 53(1) outlines another legal guideline that the PPMG must abide by. It states that 'no enforcement action shall be taken under regional arrangements or by regional agencies without the authorisation of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article'. This obligation is reaffirmed and broadened in art 54, which would require the PPMG to keep the Security Council advised of all its activities, even those under contemplation.

It could be argued that because the PPMG is a peacekeeping-style group whose use would be based on consent, this would not present the Security Council with any overly controversial decision when considering approving its deployment, and therefore that Security Council authorisation would be prompt. This is supported by the observation that '[t]he strategic context in which South Pacific Island societies find themselves since the end of the Cold War is often characterised by the contention that the region has "fallen off the map"'.¹⁵⁰ However, as Fry observed, this structuralist explanation has a number of pitfalls.¹⁵¹ All five permanent members of the Security Council have significant strategic interests in the region, and this could cause significant delay in authorising the use of the PPMG. China, France and the US could prove

¹⁴⁹ [1996] *Yearbook of the International Law Commission* 247.

¹⁵⁰ Fry, *South Pacific Security and Global Change*, above n 27, 1.

¹⁵¹ *Ibid* 1, 32–3.

particularly reluctant to authorise the use of the PPMG in their region when they exercise no direct control over its operations or funding.¹⁵²

There are also a limited number of restrictions that impinge on the Security Council's ability to authorise enforcement action by regional organisations. Article 39 states that

[t]he Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Thus the Security Council can only authorise enforcement action by regional organisations 'to maintain or restore international peace and security'. This could prove problematic in the SPR where most of the violence is internal, rather than inter-state. However, this wording is very broad, and situations that threaten international peace and security can be 'determined' by the Security Council flexibly. It would thus be possible for the Security Council to decide that violence below the level of 'armed conflict' threatened international peace and security, and thereafter approve the PPMG's deployment. As has been observed, '[t]he notion of maintaining international peace and security has a preemptive thrust. The purpose is to ensure, before it is too late, that no breach of the peace will in fact occur'.¹⁵³

Were Security Council authorisation not immediately forthcoming, it could be possible for the PPMG to be used as an art 51 collective self-defence measure. There are various grounds to support this contention. Schachter has observed that 'any state may come to the aid of a state that has been illegally attacked'.¹⁵⁴ Dinstein has noted that

[i]n the *Nicaragua* case of 1986, the International Court of Justice held that the right of collective self-defence is well established not only in Article 51 of the *UN Charter* but also in customary international law. Judge Oda, in his Dissenting Opinion, criticized the majority for not sufficiently probing the concept that the right of collective (as opposed to individual) self-defence is 'inherent' in pre-*Charter* customary law.¹⁵⁵

However, an art 51 arrangement could severely limit the effectiveness of a civilian/police group such as the PPMG. As *Case Concerning Military and Paramilitary Activities in and against Nicaragua*¹⁵⁶ determined, '[s]tates do not have a right to employ force in collective self-defence, under either the *Charter* or customary international law, except in response to acts constituting an armed

¹⁵² These three permanent members in particular have important regional interests. China could be reluctant to see the emergence of a powerful regional organisation from which it was excluded. It would also be reluctant to authorise the use of the PPMG in any PIF member that had recognised Taiwan (eg the Solomon Islands). France and the US have a number of colonial interests in the region, and a functional PPMG could offer many smaller Pacific Islands a feasible way of defending themselves and thus spark self-determination aspirations that could then threaten their strategic interests (such as military bases) and nuclear testing grounds.

¹⁵³ Yoram Dinstein, *War, Aggression and Self-Defence* (3rd ed, 2001) 248.

¹⁵⁴ Cited in *ibid* 226.

¹⁵⁵ *Ibid* 226.

¹⁵⁶ [1986] ICJ Rep 14.

attack'.¹⁵⁷ This could prevent the PPMG's deployment, until a situation has escalated to a level sufficient to constitute an 'armed attack', thus negating its purpose (ie to prevent the escalation of conflicts). Another vexing problem with operating outside Chapter VIII is that because most SPR violence is internal, not inter-state, in some instances this could be recognised under international law as legitimate (eg as part of a self-determination movement), making the PPMG's deployment illegal.

However, traditional international law has long 'permitted a foreign State to lend its support only to the central government against insurgents'.¹⁵⁸ Thus, provided that the PPMG's support was only given to the central government of the PIF member requesting assistance, it would be able to intervene (outside of the Chapter VIII framework) in any circumstance in which the attacks on the central government constituted an 'armed attack'.

It could also be argued that because the PPMG would be a civilian/police unit (not an army), deployed on a consensual basis, this would not constitute a 'force', and therefore, the requirement that an 'armed attack' have taken place would not apply. If the PPMG were requested and deployed without a military component, this argument could well prove legitimate, allowing it to be used without the Security Council's authorisation and without the requirement of an 'armed attack'. As Dinstein has noted,

[w]hen an international force is put together consensually for strictly peacekeeping — as opposed to enforcement-purposes — it need not be set up specifically by the Security Council (or, for that matter, any other organ of the United Nations).¹⁵⁹

If the PPMG were to operate on this basis it may be necessary to secure support for it on a wider basis as part of broader diplomatic efforts. Australia's extensive resources and networks in international affairs would allow it to make a valuable contribution in this regard.

The art 53(1) caveat also supports the view that the PPMG could legitimately function outside of the *Charter* framework. This article absolves regional organisations of the responsibility to report to the Security Council before taking enforcement action, if such action is directed against an 'enemy state' of World War II. This suggests that regional organisations were originally intended to allow groups of states to defend themselves and/or attack an enemy state threatening regional security. However, the PPMG, as a peace *maintenance* group, is not meant to be an offensive or defensive force. Rather, it is meant to be a unit capable of restoring order when a situation threatens to exceed the limits of small island states' defence and police capabilities, and only when such assistance is specifically requested. Grounding the PPMG constitutionally within Chapter VIII is thus somewhat ambiguous, but arguably unnecessary.

However, while the *Charter* was not originally drafted with peacekeeping operations specifically in mind, this once controversial issue has — through a

¹⁵⁷ Dinstein, above n 153, 237.

¹⁵⁸ *Ibid* 64.

¹⁵⁹ *Ibid* 268.

broad acceptance of regional peacekeeping arrangements — been resolved in favour of their acceptance under Chapter VIII.¹⁶⁰ As Gray observed,

[t]he UN Secretary-General, in his 1995 report to the General Assembly on cooperation with regional organisations, put a positive gloss on the absence of a definition [on what constitutes a ‘regional arrangement or agency’]; he said that the *Charter* had anticipated the need for flexibility by not giving any precise definition of regional arrangement or agency.¹⁶¹

In summary, while in many instances the PPMG could operate outside of Chapter VIII, this is not optimal. To maintain the confidence of smaller islands in the SPR, it would be better for the PPMG to operate within the *Charter* framework rather than outside it. Chapter VIII establishes safeguards that provide assurances to smaller islands that would otherwise feel threatened by a PPMG operating outside of this established structure with poorly defined parameters. Although Chapter VIII regional organisations do not exactly correlate to the proposed PPMG (or that of many other regional organisations), it is the only framework available, and one that offers many SPR entities valuable assurances as to the scope of the PPMG’s future operations. Under this model, the Security Council could authorise the PPMG’s use in response to most requests for assistance (regardless of whether or not an armed attack had occurred). However, were the violence recognised under international law as legitimate (eg as part of a decolonisation movement), this authorisation may not be forthcoming. Additionally, the Security Council may also prove reluctant to characterise small-scale civil unrest as a threat to international peace and security (or unwilling to authorise the PPMG’s deployment at all), and thereby render the PPMG inert. Nevertheless, this avenue should be tested before making attempts to operate outside of the *Charter* framework. Operating within the UN framework may not make every SPR entity instantly warm toward the idea of a PPMG, but it would provide a pre-established superstructure to govern PPMG operations.

B *The Legal Scope for Expanding Existing SPR Organisations into a Chapter VIII Agency*

Since the advent of the *Charter*, a host of regional organisations have been established. Many of these were created solely as regional security arrangements (such as the North Atlantic Treaty Organisation), while others have evolved from political/economic bodies to deal with security issues. The recent transition of the Commission on Security and Cooperation in Europe (‘CSCE’, now the Organization for Security and Cooperation in Europe) is a good example of such an evolution.

During the Helsinki Summit of 1992, the CSCE resolved to expand its mandate to include the capacity to carry out peacekeeping operations.¹⁶² The CSCE adopted a clear and detailed framework for its peacekeeping operations. The *Helsinki Summit Declaration* adopted at the summit set out the framework

¹⁶⁰ Christine Gray, *International Law and the Use of Armed Force* (2000) 204.

¹⁶¹ *Ibid.*

¹⁶² CSCE, *Helsinki Decisions* (Helsinki, Finland, 10 July 1992) III(1) <<http://www.osce.org/docs/english/1990-1999/summits/hels92e.htm>> at 1 May 2003.

for the conduct of peacekeeping operations.¹⁶³ It confined its operations to those that could ‘take place ... within the framework of Chapter VIII’,¹⁶⁴ and essentially codified existing ‘UN rules on peacekeeping that have emerged through practice’.¹⁶⁵ The mandate that the CSCE assigned to its future peacekeeping operations was also broad. It stated that

a CSCE peacekeeping operation, according to its mandate, will involve civilian and/or military personnel, may range from small-scale to large-scale, and may assume a variety of forms including observer and monitor missions and larger deployments of forces. Peacekeeping activities could be used, *inter alia*, to supervise and help maintain cease-fires, to monitor troop withdrawals, to support the maintenance of law and order, to provide humanitarian and medical aid and to assist refugees.¹⁶⁶

The transformation of the CSCE is interesting as a precedent for the expansion of political/economic agencies to include security arrangements. Other similar transitions include that of the Economic Community of West African States in 1981 and the Commonwealth of Independent States in 1996.¹⁶⁷ While this may suggest that the transformation process is relatively simple, the process has raised a number of legal concerns.¹⁶⁸

Gray points to a number of regional peacekeeping operations that appear to have been questionable under the initiating organisation’s constitution. She notes that constitutional questions over an organisation’s capacity to engage in certain peacekeeping arrangements remain unclear, either being overlooked, or subtly queried.¹⁶⁹ However, she observed that:

the fundamental question whether an organization has the power under its own constitution to engage in peacekeeping activities has been treated as unimportant in practice. When regional organizations have engaged in the use of force the legality of such action has been assessed by the rest of the world not in terms of the organizations [sic] own constitution but rather in terms of the *UN Charter* and general international law.¹⁷⁰

Although Gray suggests that an organisation’s capacity to enter into peacekeeping arrangements has tended to be overlooked, if the PPMG is to operate within existing frameworks, it would be vital to ensure its constitutionality.

There is thus a history of metamorphosis in some regional organisations. Since the inception of the *Charter*, many have come to expand the scope of their operations to include security and peacekeeping issues. The case of the CSCE highlights just how specific and detailed this new field of operations can be.

¹⁶³ CSCE, *Helsinki Summit Declaration* (Helsinki, Finland, 10 July 1992) <<http://www.osce.org/docs/english/1990-1999/summits/hels92e.htm>> at 1 May 2003.

¹⁶⁴ CSCE, *Helsinki Decisions*, above n 162, III(19).

¹⁶⁵ Gray, above n 160, 207.

¹⁶⁶ CSCE, *Helsinki Decisions*, above n 162, III(18) (emphasis in original).

¹⁶⁷ Gray, above n 160, 207–8.

¹⁶⁸ *Ibid* 209ff.

¹⁶⁹ *Ibid* 235–6.

¹⁷⁰ *Ibid* 209.

C Utilisation of Existing Frameworks in the Establishment of the PPMG

As previously discussed, the SPR is home to a multitude of regional organisations and thus selecting the appropriate one for expansion becomes the difficult question. Expanding the functions of existing bodies is to be preferred to the creation of a completely new organisation for reasons of economy, and to comply with PIF requirements that the various SPR regional agencies avoid duplicating the work of one another.¹⁷¹

In 1980, Sir Julius Chan proposed the establishment of a regional peacekeeping force under the auspices of the then SPF.¹⁷² Since the SPF's founding in 1971, it has emerged as '[t]he most important institution'¹⁷³ and, as discussed, has come to increasingly concern itself with security issues. The PIF's *Aitutaki Declaration* 'acknowledged that existing arrangements have not provided explicit mechanisms to facilitate consultations that would enable members to respond promptly and effectively to requests for assistance'.¹⁷⁴ To address this, the PIF 'considered that the enhancement of existing mechanisms would help build confidence within the region in relation to political and security issues and agreed that dialogue on political and security issues should be broadened'.¹⁷⁵ As mentioned above, the PIF's *Biketawa Declaration* that followed went further by laying out a rough framework for regional security responses. The proposed expansion of its field of activities to explicitly include peacekeeping operations under Chapter VIII is thus only a small step in the already prevailing direction of the Forum.

The PIF structure is also advantageous from a legal perspective. The organisation was founded with the idea of reaching consensus on various areas of common interest in an informal setting, and consequently has no formal founding treaty. It is therefore open for it to conclude a treaty establishing a PPMG without violating its own constitution (subject to certain restrictions discussed below).

The only drawback of the PIF framework is that it is not as representative as other SPR organisations. The PIF has only 16 members, compared to the 26 members of the SPC.

However, utilising the SPC framework is problematic, because it includes a host of islands without sufficient legal personality to enter into a binding international treaty establishing a PPMG. Although the *Vienna Convention on the Law of Treaties* 'recognises that at customary international law entities other than states may have the international legal personality necessary to allow them to make treaties',¹⁷⁶ this would still not permit many SPC members (such as dependencies) to enter into these types of arrangements. Utilising the SPC would

¹⁷¹ See *Honiara Declaration*, above n 10; *Aitutaki Declaration*, above n 14, [7].

¹⁷² Henningham, *The Pacific Island States*, above n 1, 27.

¹⁷³ Rolfe, 'The Prospects for Economic and Military Security in Australasia', above n 8, 31.

¹⁷⁴ *Aitutaki Declaration*, above n 14, [8].

¹⁷⁵ *Ibid* [9].

¹⁷⁶ *Vienna Convention on the Law of Treaties*, opened for signature 23 May 1969, 1155 UNTS 331, art 3 (entered into force 27 January 1980).

also mean including some of the region's remaining colonial masters,¹⁷⁷ a situation likely to meet with opprobrium given the recent and ongoing criticism of their actions in the SPR.¹⁷⁸

Based on Gray's assertion that 'the fundamental question whether an organization has the power under its own constitution to engage in peacekeeping activities has been treated as unimportant in practice',¹⁷⁹ it could be argued that the SPC could enter into Chapter VIII regional arrangements regardless of the sovereign status of its members. Moreover, if, as Gray asserts, the way a regional organisation is constituted is 'unimportant', and given the Security Council's 'flexible approach ... to the question of what counts as a regional arrangement',¹⁸⁰ it could be contended that the SPC would be able to establish regional security arrangements. However, this line of reasoning seems strained.

The PIF is the most suitable organisation for the purposes of establishing a PPMG. It has regular annual meetings at the Heads of Government level.¹⁸¹ It also has a permanently established Secretariat that could be used to monitor regional security situations. It operates largely on the basis of consensus,¹⁸² and provides observer status to some non-PIF members, thereby giving them a voice in matters of regional security.¹⁸³ It also has a range of post-Forum dialogue partners, including Canada, China, the EU, France, Indonesia, Japan, Korea, Malaysia, the Philippines, the UK, the US¹⁸⁴ and recently India,¹⁸⁵ which could prove helpful in assisting smaller PIF members meet their funding commitments to the PPMG.

D *PIF Members' Sovereign Statuses*

Various PIF members exercise different degrees of sovereignty, and an analysis of each member's level of sovereignty is important when considering their capacity to enter into a valid international treaty establishing regional security arrangements under Chapter VIII of the *Charter*.

The PIF is made up of 11 independent sovereign states: Australia, Fiji, Kiribati, Nauru, New Zealand, PNG, the Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa. As independent sovereign states, all of which are members of the UN, each of these countries has sufficient capacity under

¹⁷⁷ Although Australia was, and New Zealand still is, a colonial ruler, because of their regional engagement they may well be perceived differently from other non-regional colonial rulers in the SPC (France and the US).

¹⁷⁸ For example, the US has been continually urged to ratify the *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, opened for signature 16 March 1998, 37 ILM 22 (1998) (not yet in force), and take further action to address the nuclear contamination it caused in the Marshall Islands. France has been criticised for its nuclear testing and its slow response to self-determination movements in its remaining colonies.

¹⁷⁹ Gray, above n 160, 209.

¹⁸⁰ Ibid 233.

¹⁸¹ Rolfe, 'The Prospects for Economic and Military Security in Australasia', above n 8, 32.

¹⁸² Ibid.

¹⁸³ For example New Caledonia had observer status at the 1999 PIF meeting: Thirtieth South Pacific Forum, above n 6, [45].

¹⁸⁴ PIF Secretariat <<http://www.forumsec.org.fj/about/spf.htm>> at 1 May 2003.

¹⁸⁵ Thirty-Third Pacific Islands Forum, above n 75, [12].

international law to enter into valid treaty arrangements establishing a Chapter VIII regional organisation.¹⁸⁶

The other five PIF members (the Cook Islands, the Marshall Islands, Micronesia, Niue and Palau) govern in free-association with their former colonial rulers. However, not all of these five islands exercise the same degree of sovereignty.

Ntumu observes that '[t]he status of the Cook Islands as an independent state capable of entering into international relations is controversial'.¹⁸⁷ The *Cook Islands Constitution Act 1964* (NZ) vests New Zealand with responsibility for external affairs and defence; however, a statement by the New Zealand Government in 1976 contradicted this, stating that '[i]n accordance with its constitutional status the Government of the Cook Islands has exercised and continues to exercise in the field of foreign relations attributes recognised in international law as attributes of a sovereign state'.¹⁸⁸ In practice, 'the Cook Islands has entered into international arrangements'.¹⁸⁹ While some states recognise its independent status, others, such as Japan, do not.¹⁹⁰ The US continues to regard 'the Cook Islands as being constitutionally tied to New Zealand, due to the Cook's [sic] free-association status'.¹⁹¹ This limited controversy appears to be politically rather than legally based.¹⁹² All PIF members recognise the Cook Islands' independent sovereign status, as do many members of the international community,¹⁹³ suggesting its ability to enter into an international treaty establishing the PPMG.

However, it could be argued that because the Cook Islands is not yet a member of the UN, it would thereby be precluded from becoming a member of a regional security organisation under art 52(2) of the *Charter*. This article states that

[t]he Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

The reference to membership in art 52(2) does not appear to be exclusive. Rather its inclusive language leaves open the possibility for regional organisations to be formed by UN members and non-members alike. Article 52(2) only places additional responsibilities on UN members entering into or

¹⁸⁶ *Vienna Convention on the Law of Treaties*, above n 176, art 2(1)(a).

¹⁸⁷ Ntumu, above n 41, 12.

¹⁸⁸ From a statement of the New Zealand Government to the US Government: *ibid*.

¹⁸⁹ *Ibid* 13.

¹⁹⁰ *Ibid*. Henningham also noted that '[i]n 1979, and again in 1989, because of doubts about its sovereignty, the Cook Islands was refused membership of the group of developing countries in Africa, the Caribbean and the Pacific subject to the *Lome Convention*': Stephen Henningham, 'The Security and Defence Environment' in Desmond Ball and Stephen Henningham (eds), *South Pacific Security: Issues and Perspectives* (1991) 11, 13.

¹⁹¹ Ntumu, above n 41, 13.

¹⁹² For example, the US wanted to avoid recognising the Cook Islands, because it feared that this could signal the same transfer of rights to the Pacific Islands in free-association agreements with it.

¹⁹³ Ntumu, above n 41, 13.

constituting regional organisations; it does not exclude non-members from participating with members in the creation of these agencies.

The Marshall Islands, Micronesia and Palau are all in free-association agreements with the US and are free to engage in a range of international relations. However, this must be in consultation with the US,¹⁹⁴ especially as regards issues concerning security and defence.¹⁹⁵ For example, the Marshall Islands has assumed a constitutional obligation under the *Compact of Free Association Act of 1985* to give the US ‘full authority and responsibility for security and defence matters in relation to the Marshall Islands’.¹⁹⁶ However, the US has recently ‘asserted that the Federated States of Micronesia and the Marshall Islands ... are sovereign and independent’,¹⁹⁷ suggesting their capacity to enter into an agreement establishing a PPMG. Moreover, as all three islands are members of the UN, a privilege only open to states,¹⁹⁸ this further implies their capacity to enter into a binding treaty establishing a Chapter VIII regional arrangement. Given the likely benefit of the PPMG in preventing terrorism, US support should be readily forthcoming.

As one scholar has noted, ‘Niue is not a party to any treaty or convention, leaving the exercise of such external relations matters to New Zealand’,¹⁹⁹ which is a stance consistent with s 6 of the *Niue Constitution Act 1974* (NZ). It is thus clearly beyond the sovereign capacity of Niue to enter any treaty arrangements establishing a Chapter VIII security arrangement. However, it would be possible for New Zealand, as the state vested with the responsibility of conducting Niue’s foreign affairs, to enter into the PPMG treaty on Niue’s behalf. Given New Zealand’s active engagement in the Pacific, this seems a reasonable assumption to make.

The PIF has 16 members, yet, as the observer status of New Caledonia suggests, this could change in the near future. Other potential members include the newly independent East Timor and the emerging autonomous entities of Bougainville, French Polynesia and West Papua/Irian Jaya. Of these five potential new members, East Timor is the most likely to become a PIF member in the near future. As it is already a member of the UN, and a recognised independent nation state, if it joined the PIF it would be as a state capable of entering into a Chapter VIII arrangement and would therefore not pose any problem to the functioning of the PPMG.

New Caledonia is another possibility. Following the referendum approving the *Agreement on New Caledonia* (*Noumea Accord*) in November 1998,²⁰⁰ its

¹⁹⁴ *Compact of Free Association Act of 1985*, 48 USC 1681 § 123 (Micronesia), §§ 121, 123, 313 (Marshall Islands) (1987).

¹⁹⁵ *Ibid* 118–19, 487; Henningham, ‘The Security and Defence Environment’, above n 190, 13.

¹⁹⁶ *Compact of Free Association Act of 1985*, 48 USC 1681 § 311 (1987).

¹⁹⁷ *Ibid* 13.

¹⁹⁸ *UN Charter* art 4(1).

¹⁹⁹ Ntuny, above n 41, 167.

²⁰⁰ *Agreement on New Caledonia*, 5 May 1999, France–New Caledonia <<http://www.ambafrance-au.org/politics/pages/noumea.en.htm>> at 1 May 2003 [trans of: *Accord sur la Nouvelle-Calédonie* <<http://www.ambafrance-au.org/politics/pages/noumea.fr.htm>> at 1 May 2003].

status changed to one of 'evolving independence'.²⁰¹ However, because the referenda on whether New Caledonia should assume responsibility for defence and public order are not due to take place until 2013–18,²⁰² the prospect of it becoming a party to a Chapter VIII arrangement is unlikely in the near future.

In summary, despite varying degrees of autonomy among the five PIF members in free-association agreements, subject to certain conditions, all five seem capable of becoming parties to the PPMG treaty, along with the other 11 independent PIF states.

E *Military and Economic Capacity of the PIF Members*

PIF members do not all have the economic capacity to make equal contributions to the PPMG. Many also do not have established armed units to contribute. An analysis of the varying capabilities of the 16 entities is thus essential to determining the make-up and funding of the PPMG.

Australia and New Zealand are the only two fully industrialised 'Western' economies in the SPR, with per capita GDP of A\$29 652 and A\$26 053 respectively.²⁰³ However, many other PIF members have relatively large GDPs and per capita incomes. Fiji has a per capita income of A\$3909²⁰⁴ (and a GDP of A\$8.07 billion), PNG A\$1869 (and a GDP of A\$7.33 billion),²⁰⁵ Tonga A\$4084 (and a GDP of A\$296 million),²⁰⁶ the Solomon Islands A\$1440 (and a GDP of A\$1.16 billion)²⁰⁷ and Vanuatu A\$1899 (and a GDP of A\$398 million).²⁰⁸ The Cook Islands has a per capita income of A\$10 269,²⁰⁹ Micronesia A\$3134,²¹⁰ the Marshall Islands A\$1514²¹¹ and Nauru A\$8000.²¹² However, many of these statistics are misleading. Henningham observed that, in fact, 'some of the island states are juridical rather than empirical entities'.²¹³ For many Pacific Islands, external aid makes up a large proportion of their GDPs.²¹⁴ For example, in 1994 the New Zealand Government contributed A\$7.12 million to the Cook Islands' A\$10.59 million budget.²¹⁵ Some countries have deceptively high per capita incomes, including Nauru, whose income has been sustained by the mining of its sole natural resource (phosphate), reserves of which are almost extinguished. The

²⁰¹ Department of Foreign Affairs and Trade, 'New Caledonia: Referendum on the Noumea Accord' (Press Release, 9 November 1998) available at <http://www.dfat.gov.au/media/releases/foreign/1998/fa137_98.html> at 1 May 2003.

²⁰² *Ibid.*

²⁰³ Figures based on 1997–98 statistics: Special Broadcasting Service, *SBS World Guide* (7th ed, 1999) 43, 530. Figures are based on an exchange rate of US\$1 = A\$1.58, current at 1 May 2003.

²⁰⁴ *Ibid* 256.

²⁰⁵ *Ibid* 570.

²⁰⁶ *Ibid* 724.

²⁰⁷ *Ibid* 661.

²⁰⁸ *Ibid* 788.

²⁰⁹ *Ibid* 183.

²¹⁰ *Ibid* 491.

²¹¹ Henningham, *The Pacific Island States*, above n 1, 13.

²¹² *Ibid.*

²¹³ *Ibid* 9.

²¹⁴ See Special Broadcasting Service, above n 203, 570, 724, 743.

²¹⁵ *Ibid* 183. Figures are based on an exchange rate of NZ\$1 = A\$0.89, current at 1 May 2003.

political crisis in the Solomon Islands has also rendered its economy temporarily inert.

Only five PIF members have armed forces: Australia (57 400 regular members), New Zealand (9550), PNG (4300), Fiji (3600)²¹⁶ and Tonga (350).²¹⁷ However, Vanuatu and the Solomon Islands also have 'small paramilitary police units'.²¹⁸ This general absence of defence forces or their small size reflects both the relatively low-scale nature of conflicts in the SPR and the relatively small national economies of the region. This in turn implies that the PPMG would not need to be either large or excessively armed.

The only other regional force of sorts is the PPBP. With the cooperation of the ADF, the PPBP provides support to ten Pacific Islands²¹⁹ and will cost the Australian Government an estimated A\$350 million over the next 25 years.²²⁰ It also uses P-3 long-range maritime patrol aircraft to improve aerial surveillance.²²¹ By centralising the coordination of this project and expanding its scope, it would be possible to utilise this existing infrastructure and therefore partially offset the cost of establishing the PPMG.

Another possible source of funding could come from redirecting Australia's current defence cooperation outlay to neighbouring Pacific Islands. In 1996–97 this amounted to A\$43.2 million, A\$11.6 million going to PNG and A\$31.6 million to 11 other South Pacific island states.²²² In summary, it can be seen that despite relatively small national economies, at least seven PIF members have sufficient budgets to fund standing armed forces and/or paramilitary police units. In addition, many countries have incomes capable of contributing in a limited way to regional security. Costly projects such as the PPBP have already proven successful, serving as a precedent for the PPMG.²²³

The above statistics also justify a division of PIF members into differing military and economic capabilities. The division proposed here is meant as a general guide, and due to the high level of volatility in the region would need to be subject to regular revision. The division is based on long-term underlying potential capacity and does not necessarily correspond to the actual state of individual economies at the time of writing. On these grounds, two broad divisions can be made.²²⁴ Group A, consisting of Australia, New Zealand, Fiji, PNG, Tonga, the Solomon Islands and Vanuatu all have existing defence forces and/or paramilitary police units as well as actual or potentially large national economies. Group B would be composed of the remaining nine PIF members

²¹⁶ See *ibid* 42, 530, 570 and 256 respectively.

²¹⁷ Henningham, *The Pacific Island States*, above n 1, 26.

²¹⁸ *Ibid* 26–7.

²¹⁹ Ian McPhedran, 'Howard Sinks \$350m into Pacific Patrols', *Courier Mail* (Brisbane, Australia), 31 October 2000, 15.

²²⁰ Moore, above 83. The boats are provided to PNG, Vanuatu, the Solomon Islands, the Cook Islands, the Marshall Islands, Micronesia, Tonga and Western Samoa: Stuart Harris, 'Australia's Regional Security Planning' in Mohan Malik (ed), *Australia's Security in the 21st Century* (1999) 109, 117.

²²¹ Stewart Woodman, 'Strategies and Concepts' in Mohan Malik (ed), *Australia's Security in the 21st Century* (1999) 32, 40.

²²² Harris, above n 220, 117.

²²³ Moore, above n 83.

²²⁴ This could be broken down further. However, for the sake of clarity and the need for further economic analysis, only two groups have been used in this commentary.

that have very limited or no police capabilities, and generally smaller per capita incomes.

The rationale for this division is two-fold. First, basing funding on a GDP per capita basis would mean that Australia and New Zealand would finance almost the entire project. This would then give them the potential to endanger the operations of the PPMG by threatening to withdraw funding, in much the same way that the UN is threatened by large member states failing to meet funding dues. By spreading the financing of the PPMG as broadly as possible, PIF members could have greater confidence that it would not simply become an extra-national arm of the Australian and New Zealand governments. Second, by making PIF members equally responsible for funding the PPMG (within two broad categories), it would foster a sense that the team was actually 'owned' by them and not just an externally imposed foreign force — a sense of commitment designed to encourage acceptance and continued support for the project.

F *The Legal Framework for a PPMG*

1 *Membership and Establishment of the PPMG*

The PPMG would come into being through the signing and ratification of an international treaty. The treaty would outline the framework discussed below, as well as the rules to be observed by PPMG personnel. The treaty could either annex the UN rules on peacekeeping, or utilise rules similar to those adopted by the CSCE.²²⁵ The PPMG treaty would initially be open only to PIF members.

2 *Composition of the PPMG*

The framework for the PPMG proposed here attempts to utilise suitable existing bodies and infrastructure. It aims to provide a basic level of security to all PIF members, without compromising their sovereignty or exposing them to manipulation from more powerful members. The PPMG should be conceptualised as an extension of national police constabularies. Rather than waiting until full-scale armed conflict has erupted, it would be best suited to assisting national police (where they exist) when uncontrollable civil unrest or criminal activity begins to threaten a PIF member's ability to maintain law and order.

As the above discussion has highlighted, conflicts in the Pacific tend generally to be relatively small-scale. Small groups of reasonably well-armed militias pose a serious threat to the majority of PIF members, most of whom do not have any defence capabilities.²²⁶ As discussed, coups are also of increasing concern in the Pacific. Patrolling EEZs (most PIF members' most valuable resource), is another related security issue. In essence, the small-scale nature of most threats in the SPR means that the PPMG would not need to be an excessively large body. The exact size of the PPMG would require expert analysis and empirical testing, however, for the purposes of this paper, 300 personnel is posited as an adequate size, this being the original size of the TMG

²²⁵ See above part II(B).

²²⁶ Vakatale, above n 15, 29.

that operated in Bougainville, including support and ancillary staff.²²⁷ This operation proved successful for a population of 160 000–200 000 in Bougainville, and so could be expected to be similarly suitable to most PIF members that have similar or smaller populations.²²⁸

The ethnic diversity of the PPMG has the potential to prove problematic if not carefully considered. In some interventions undertaken by the PPMG, some personnel could receive a hostile reception that others might not. Therefore, depending on the country in which the PPMG is operating and the type of situation it is assisting in, the stationing of certain PPMG personnel on the ground may need careful consideration. However, the need for this diversity is an overriding priority, and should not prove overly cumbersome to manage.

As discussed, the funding contributions of the various PIF members have been divided into two categories: Groups A and B. Group A would fund five-sixths of the PPMG and Group B one-sixth. In accordance with these funding guidelines, Group A would provide 250 personnel and Group B the remaining 50. Thus Australia, New Zealand, Fiji, PNG, Tonga, the Solomon Islands and Vanuatu would each ideally fund and contribute approximately 35 personnel. The Cook Islands, Kiribati, the Marshall Islands, Micronesia, Nauru, Niue, Palau, Tuvalu and Western Samoa would each be responsible for collectively providing and funding 50 personnel.

The nature of conflict in the SPR means that the PPMG would not need to be heavily armed, or composed solely of members of the infantry. As Evans has observed,

in many situations [in the South Pacific] it may be more appropriate to respond to a request for assistance with a civilian rather than military capability. The mere presence abroad of Australian military forces and equipment sends messages, which may be intended to be reassuring but might be seen in fact as threatening.²²⁹

Like the TMG in Bougainville, the PPMG could be composed of a diverse range of civilian personnel. As the Bougainville experience demonstrated, this should have an appropriate gender balance. Rolfe, in proposing the establishment of a bilateral brigade between Australia and New Zealand (to work, *inter alia*, in the Pacific), suggests that the ‘force would be focused on light infantry capabilities (reinforcing the thought that the unit routinely available for peacekeeping duties should not be from the military)’.²³⁰ The civilian component of the PPMG could be trained to assist in life-skills development, good governance projects, primary health and education, and other peace-building initiatives. The use of predominantly civilian personnel has the added benefit that training and equipment costs are significantly reduced.

While the PPMG would be largely civilian, elite forces could form a small component. As Forbes observed in discussing the recent coup in the Solomon Islands, the mere ‘prospect of facing elite troops caused many of the untrained

²²⁷ Rolfe, ‘Peacekeeping the Pacific Way’, above n 87, 49.

²²⁸ Henningham, *The Pacific Island States*, above n 1, 2.

²²⁹ Evans, above n 26.

²³⁰ Rolfe, ‘New Zealand and Peacekeeping’, above n 114, 5.

rebels to flee' when an Australian warship sailed into the harbour.²³¹ Including a small group of 20–30 elite personnel would add weight to the PPMG and act as a deterrent. It could also be used in certain coup and disarmament situations. The elite forces, when not needed as a group, could be divided amongst the civilian teams to provide each contingent (of approximately 20 people, if the TMG model were followed) with a defence capability. In many situations these elite troops could be minimally armed to avoid raising concern amongst locals. However, the fear of neo-colonialism among many leading officials of several Pacific Islands cannot be overstated.²³² Therefore, establishing the PPMG may prove more palatable if the elite component were left out altogether, an omission that would not significantly reduce the PPMG's capabilities.

Along with the civilian component, a number of paramilitary police would form the core of the PPMG. These police would allow the PPMG to perform its primary function, that is, acting as an extension of national police units when situations get beyond national capabilities. They could also be used for riot control and for disarmament purposes. A well-trained paramilitary police unit within the PPMG would permit it to respond rapidly to declining security situations, allowing for the re-establishment of law and order before a situation deteriorates, thereby preventing expensive and lengthy rebuilding projects.

The PPMG would need to have the capacity to respond rapidly to emergency situations, were the PIF to authorise its immediate deployment. Threats such as coups can require immediate action, while leaving a deteriorating security environment too long can result in devastating consequences requiring extraordinarily costly rebuilding (as occurred in East Timor). Henningham has suggested the need for a helicopter support ship in the Pacific. He argues that '[t]his capability could shorten reaction times and, by virtue of size and carrying capacity, allow a range of tactical response options to meet a developing situation'.²³³ He further notes that it would provide an optimal command and communications base, as well as a far less threatening presence than major combat vessels.²³⁴ When not engaged in security operations it could be used for 'natural disaster relief and civil aid and development tasks'.²³⁵ A helicopter support ship would thus seem a valuable acquisition for the PPMG.

The PPBP could also be incorporated into the PPMG. Although it is not a discrete project operated under a central command, the potential exists to bring this project together and incorporate it into a regional security team. It already has 22 patrol boats operating in the region, and staff from a number of PIF members presently running them. This merger would give the PPMG a number of support craft, a pre-established 25-year partial budget and possibly also staff. The scale of PPBP operations could be downsized whenever the PPMG was required, and used at full capacity when the PPMG was not on active service. Although this could create momentary weaknesses in PPBP operations, its capacity would not be rendered completely ineffective when the PPMG was

²³¹ Forbes, above n 3.

²³² Confidential interviews with senior Pacific Island diplomats (UN, New York, November – December 2002).

²³³ Henningham, *The Pacific Island States*, above n 1, 146.

²³⁴ *Ibid.*

²³⁵ *Ibid.*

called away. Moreover, PPBP operations would be improved by virtue of the addition of well-trained PPMG personnel. Also, in view of the limited budgets of many PIF members, expanding the PPBP into a centralised multidisciplinary unit that can assume the mantle of the PPMG when required would prevent duplication and reduce costs.

The PPMG would be a multidisciplinary unit. From this it follows that different personnel within the PPMG would require different types and levels of training, with apparently different costs. The PPMG would be composed of civilian personnel, paramilitary police and possibly elite special forces. To ease the burden on PIF members with smaller economic resources, it is suggested that contributions be divided accordingly. Australia and New Zealand, who already have highly-trained elite special forces, would be in the best position to fund and provide this component of the PPMG (if it were required). However, if other PIF members also wished to contribute to this contingent, the contributions of Australia and New Zealand could be scaled back accordingly. All Group A member states that already have significant defence and/or police forces would be capable of providing paramilitary police personnel. The remaining civilian contingent would require significantly less expensive training and equipment and would thus be most suited to the Group B members (the remainder of the civilian personnel would come from Group A states).

In summary, the proposed PPMG could potentially comprise civilian, paramilitary and even elite special forces. In this sense it would be a unique team. Nonetheless, its multi-skilled personnel would be similar to other proposed Pacific security teams²³⁶ or the composition of present day peacekeeping operations that regularly mix civilian and military personnel (as was directly evidenced in the TMG in Bougainville).

3 *Funding of the PPMG*

Funding the PPMG may prove the most difficult obstacle to its establishment. To maintain the PPMG's integrity, legitimacy and effectiveness as a truly regional organisation, it cannot be funded directly by Australia and/or New Zealand. This section will elaborate the practical details of how to implement the abovementioned funding framework.

Of the seven Group A countries, at least two (Australia and New Zealand) will have no difficulties meeting funding commitments. As discussed, three of the other five states, Fiji, PNG and Tonga all have defence forces well in excess of the 35 personnel they would be required to commit to the PPMG, so *prima facie*, they would be capable of meeting their commitments. In the mid- to long-term, the Solomon Islands and Vanuatu would also seem capable of making a significant paramilitary police contribution, in view of their underlying potential to produce relatively large GDPs. While the PPMG personnel that they would be responsible for supplying and funding would require expensive training, joining the PPMG could represent an overall saving to these governments. This is because the PPMG offers to provide them with internal security, thereby allowing them to scale back expenditure on national defence forces. Moreover, because these five states could limit their contributions to the

²³⁶ Fry, 'Peacekeeping in the South Pacific', above n 134, 264.

supply and funding of paramilitary police (not defence or elite personnel), these costs would be relatively low. An additional saving to all PIF members would be that by rotating their PPMG staff, they could acquire expert police and civilian training skills that could then be utilised in their home communities. In some countries this could even replace national academies, further offsetting the costs of their PPMG commitments.

Redirecting the funds for the PPBP could also partially offset the cost to Australia. By utilising the PPMG as a patrol boat unit when not on active service, most of the PPBP funding (provided by Australia) could be scaled back and put towards Australia's contribution to the PPMG, and possibly even the acquisition of a helicopter support ship. This would not necessarily jeopardise the effectiveness of PPBP operations.

Group B governments may have greater funding difficulties, as many of these islands are already heavily dependent on external aid. In this regard, Australia and New Zealand could effectively end up funding a greater proportion of the PPMG than the abovementioned outline would suggest, as their aid contributions could effectively come to be used to fund various PIF members' PPMG contributions. However, this situation is still to be preferred to the direct financing of the PPMG by Australia and/or New Zealand, as it would help maintain the PPMG's independence and legitimacy.

Group B contributions would not be excessive or unrealistic. Group B members would be responsible for funding and providing approximately five to six civilian personnel each, who, as civilians, would require the least expensive training and equipment of all the PPMG staff members. Non-regional powers could also prove willing to assist these islands to meet their PPMG commitments because of the range of benefits that the PPMG offers them. The PPMG could be used in patrolling and preventing the spread of terrorism, drug trafficking and arms smuggling in the region, and thus stands to serve the interests of a number of non-regional states. Post-Forum dialogue partners could also prove enthusiastic donors.²³⁷

4 *Mandate of the PPMG*

The PPMG would operate on the basis of consensus, in keeping with the PIF's unwritten tradition. The PPMG could only be deployed if a PIF government in need of assistance made a request to the PIF, and then only if all the PIF members agreed to authorise the PPMG's deployment. The PIF would detail the PPMG's mandate for that mission, and a Status of Forces Agreement would then need to be negotiated with the PIF member concerned on behalf of all PIF members.

In discussing the potential of a regional peacekeeping force, Fry suggested that it could be authorised to intervene upon the filing of a request for assistance from an individual Pacific Island.²³⁸ He envisaged a force dominated by Australia and New Zealand; nevertheless, even within this framework he acknowledged that 'Australia and New Zealand would be attracted by the idea of

²³⁷ For example, the PPMG could assist the US in its 'war against terrorism', and Japan by reducing conflict in the region and thus the amount of reconstruction aid required by Pacific Island states.

²³⁸ Fry, 'Peacekeeping in the South Pacific', above n 134, 13.

seeking Forum endorsement'.²³⁹ Thus operating within the PIF consensus framework is the obvious starting point for authorising the PPMG's deployment.

Once deployed, the PPMG's field of operations could not be extended to other member states without the express request of the government of that PIF member, and then only if it is authorised to do so by the PIF. The PPMG must also only be used to support the government making the request for assistance. Because of the unique nature of the Pacific, any regional approach to security could not easily comply with traditional notions of 'peacekeeping'.²⁴⁰ As Fry observed, a Pacific regional force 'would not be a neutral force monitoring an arrangement between two warring parties but rather a force in aid of the government of the day dealing with internal security problems such as urban riots or separatist movements'.²⁴¹

In accordance with art 53(1) of the *UN Charter*, the PIF would also need to seek authorisation from the Security Council before the PPMG could be deployed. As discussed, Security Council authorisation would not necessarily be immediate. However, if approval were not forthcoming, it would be possible for the PPMG to be deployed strictly as a peacekeeping measure (ie not as an enforcement operation) outside of the *Charter* framework.

With the threat of coups in the region, an immediate problem arises how to determine the 'legitimate' government of the PIF member requesting assistance. For example, how would the PIF ensure that the PPMG was not used to support a military regime that had ousted a democratically elected government? In his working paper discussing the difficulties faced by peacekeeping in the South Pacific, Fry noted that

[t]he term 'legitimate' is obviously problematic. The intervening state may, in fact, have choice about whom it regards as legitimate — an elected government, a head of state, or a military regime which has just taken effective control.²⁴²

However, the framework detailed above would avoid this problem by demanding PIF consensus. This would mean that if, for example, even one PIF member was opposed to a 'legitimate' government's request for assistance, it could effectively 'veto' the PPMG's deployment. In practice this would mean that the PPMG would be unlikely to intervene in highly controversial situations; however, it would foster and encourage regional engagement and cooperation, as well as providing a range of other benefits discussed below.

The risk of coups faced by many PIF members also suggests that provision should be made to allow individual PIF members to authorise another PIF member to request assistance on its behalf, in the event that it is unable to make its intention known to the PIF. While it has been observed that, with its prior history of coups, Fiji would be likely to oppose any regional security force,²⁴³ the abovementioned safeguards would make it highly unlikely that any force would ever be authorised to intervene in such sensitive circumstances. This

²³⁹ Ibid.

²⁴⁰ Ibid 2, 16.

²⁴¹ Ibid 2.

²⁴² Ibid 19.

²⁴³ Ibid 13.

would therefore make the proposal far more acceptable to Fijians with this concern.

5 *Command of the PPMG*

The question of who would command the PPMG is potentially troubling, and the answer would need to be acceptable to all PIF members. There are a number of different command possibilities. The PPMG could be commanded by each PIF member on a rotating basis. This model could involve the PIF member to whom the command falls either selecting their own commander(s), or proposing a list of suitable commanders to the PIF, with the PIF selecting the most suitable one(s). Alternatively, each PIF member could submit a list of two to five suitable commanders, and from this list the PIF could then elect a commander(s).

Another possibility would be to expand the mandate of a regional body such as the Forum Regional Security Committee to include command of the PPMG. Devolving command to a regional body would have the benefit of removing control of the PPMG from a single PIF member, providing additional legitimacy to the PPMG's work.

Command of the PPMG could also be transferred to the UN. The Secretary-General made specific note of the potential benefits that cooperation, in the area of peacekeeping, between regional organisations and the UN could bring.²⁴⁴ However, given the UN's poor record of commanding peacekeeping operations (eg in Somalia), this option may not be readily acceptable to the PIF.

The issue of command is complex; however, devolving it to a regional command body such as the Forum Regional Security Committee would seem most likely to meet consensus. A rotating command could be another acceptable option.

G *Obstacles Faced by the PPMG*

Henningham lists a number of practical and political problems that a regional peacekeeping force would face:

Who would fund and provide personnel for such a force? Where would it be stationed? Under what circumstances and conditions and with what safeguards would it be employed? Would it be used sufficiently often to make its formation and cost worthwhile? Could it cloak neo-colonial intervention by Australia and New Zealand, the two powers which presumably would provide most of the funding and some of the personnel? Would individual Forum governments be able to veto its use? Would its use clash with the sovereignty of particular states, especially in relation to essentially internal disputes?²⁴⁵

Other potential obstacles include the reluctance of some states, such as New Zealand, to make a firm commitment to provide personnel (preferring instead a case-by-case assessment),²⁴⁶ and the difficulty of effectively coordinating such a

²⁴⁴ Boutros Boutros-Ghali, Secretary-General of the UN, *Supplement to an Agenda For Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations* [85]–[88] UN Docs A/50/60; S/1995/1 (1995).

²⁴⁵ Henningham, *The Pacific Island States*, above n 1, 27.

²⁴⁶ Rolfe, 'New Zealand and Peacekeeping', above n 114, 3.

diverse group of people. With such an apparent range of potential obstacles, it is necessary to address each in turn.

The questions of who would fund and provide personnel for such a force, and the veto rights of individual Forum governments, have already been addressed.²⁴⁷ The other questions posed by Henningham will now be considered.

1 *Where Would It Be Stationed?*

Darwin, Australia would be one possible base for the PPMG, given Australia's existing military infrastructure there. Australia has already provided logistical support in previous Pacific peacekeeping operations, and using this existing infrastructure would prevent unnecessary duplication. New Zealand also has the potential to provide a suitable base for the PPMG.

Basing the PPMG in Darwin has the added benefit of allowing all PPMG members an opportunity of living and working together in Australia, as well as the potential for interacting and generating networks. Although Australia (or New Zealand) would be the proposed command station, it would also be optimal if the PPMG were able to train throughout the region to allow for familiarisation with various local conditions.

This arrangement would arguably be acceptable to other PIF members because, while it gives the regional powers a central role, this does not imply Australian/New Zealand command and control. Enough safeguards exist to prevent the stationing of the PPMG in Darwin from creating any undue threats to other PIF members. Furthermore, given the benefits of the PPMG to all PIF members, and the inability of other members to assume this costly role, it appears a small compromise for other PIF members to make.

2 *Under What Circumstances and Conditions and with What Safeguards Would It Be Deployed?*

The PPMG could only intervene in a PIF member if the government of that PIF member made a request for intervention.²⁴⁸ The 16 PIF members would then need to approve the use of the PPMG, and then only to approve its use to support the government of that PIF member making the request. Under art 53(1) of the *Charter*, the authorisation of the Security Council would also be necessary before the PPMG could be sent on mission. These safeguards prevent any potential violation of art 2(4). They also provide for consistency with the *Charter's* regional security arrangements.

The proposed framework means that no PIF member would be threatened by the PPMG. Under the proposed system there is no potential for the use of the PPMG in the territory of any PIF member without that member's request. Thus, neither the regional powers, nor the smallest PIF member are exposed to any additional threat as a result of the PPMG.

These safeguards should not prove overly cumbersome. Any PIF member unable to control internal unrest is likely to seek the assistance of the PPMG, or else face having its government destabilised or toppled by the violence. Despite the rigid safeguards in place to regulate the activation of the PPMG, approval for

²⁴⁷ See above part II(F)(2)-(4).

²⁴⁸ Or if a PIF member it has authorised to make that decision for it so requests.

its use could be forthcoming, given the benefits that its use offers to all PIF members. Utilising the PPMG to prevent conflicts from flaring up is low-risk (because it does not threaten but rather supports governments). It would save millions in rebuilding costs that would otherwise need to be spent if the conflict ran its course, and would stop the spread of violence and avert economic collapse in this highly interrelated region.²⁴⁹

3 *Would It Be Used Sufficiently Often to Make Its Formation and Cost Worthwhile?*

The PPMG may not be required at all times. In fact, its establishment may prove a deterrent to further coups (regardless of the likelihood of the PIF authorising its deployment in such circumstances) and untrained rebel attacks, thus eliminating the need for intervention altogether. However, there are a number of functions the PPMG could serve when not engaged in active service. It could replace the PPBP, which it is estimated will cost the Australian Government A\$350 million over the next 25 years. While fulfilling the PPBP functions, given the special training of the PPMG personnel it could also be used to fight narcotics smuggling and the small arms trade in the region.²⁵⁰ Moreover, given its rapid response capabilities, it would also serve perfectly as a disaster relief group, which would be in regular demand.²⁵¹ Its presence and well-trained personnel could also deter terrorist groups from establishing themselves in the SPR. Finally, by rotating personnel, the expert police training given to PPMG staff could be used by all PIF members in their domestic contexts.

Once the PPMG's credibility was well established, PIF members with costly national defence forces could scale back their size. Also, by eliminating conflict in the region, the cost to governments of rebuilding and providing humanitarian relief would further offset their contributions to the PPMG.

4 *Could It Cloak Neo-Colonial Intervention by Australia and New Zealand?*

The numerous safeguards described above indicate that neo-colonial intervention would be unlikely. Were either Australia or New Zealand to withdraw their contributions to the PPMG because of the funding arrangements, this would represent a significant, but not fatal blow to the PPMG. Australia and New Zealand would probably occupy central positions, through their provision of extra-budgetary logistical, communications and other support. However, because of the joint funding arrangements it would be possible for the PPMG to survive an Australian or New Zealand withdrawal by remodelling and scaling back operations, a threat that would be likely to prevent such a withdrawal. These funding arrangements would thus proscribe the larger powers' ability to

²⁴⁹ See, eg, Sean Dooley, 'The Road to Honiara', *Arena Magazine* (Melbourne, Australia), February–March 2002, 14–15.

²⁵⁰ This could work in conjunction with, or replace the subcommittee of the SPC currently dealing with this issue, the South Pacific Chiefs of Police Conference. See also Alexander Downer, Minister for Foreign Affairs, Australia, 'International Small Arms Issues: An Australian Policy Framework' (Press Release, 23 July 1999) <http://www.dfat.gov.au/media/releases/foreign/1999/fa082_99.html> at 1 May 2003.

²⁵¹ In 1998–99 alone, the ADF carried out three natural disaster relief programs: Bob Breen, 'Peace Keeping Lessons — The ADF in East Timor and Bougainville' (2001) 13 *The Sydney Papers* 25, 26.

'blackmail' other PIF members by threat of withdrawal from the PPMG. Furthermore, given the framework described above, no PIF member would have the authority to unilaterally or collectively authorise the use of the PPMG against a PIF member without its consent.

5 *Would the Use of a Veto Clash with the Sovereignty of Particular States, Especially in Relation to Essentially Internal Disputes?*

The veto of every PIF member would prevent any potential breach of sovereignty. In 1989, Fry argued that

[w]hat is clear after a decade of proposals is that there is no enthusiasm for a *standing* regional peacekeeping force. Because, in essence, such a proposal is about external involvement in internal security matters it is of concern to individual governments that such a force not infringe their sovereignty.²⁵²

However, in 2003 the situation is very different. In 1989, Fry was thinking of an intervention primarily funded and operated by Australia and New Zealand, whereas the proposal put forward here is one where any 'intervening' operation would also be staffed by at least some of the nationals of the country in which intervention occurred. A more regional security team authorised by the ruling government cannot be considered to be 'external involvement' in the sense used by Fry. Additionally, the situation has now also changed because external threats are increasingly posing security threats to a range of Pacific Islands.

6 *Are States Too Reluctant to Make Concrete Commitments?*

The failure of UN collective security measures to take root suggests the reluctance of states to make firm commitments to collective security arrangements. However, there is a strong case for changing this trend. One reason is the failure of previous ad hoc arrangements to respond in a timely manner to requests for assistance. Another is the cost to regional powers of rebuilding states that for political reasons they are unable to assist until after the destruction has taken place and the cost of restoring order and rebuilding has significantly increased.

Because the PPMG framework allows for intervention prior to destruction, countries such as Australia and New Zealand are likely to accept the need for a commitment, for the simple fact that it will save them money by preventing destruction of infrastructure and humanitarian disasters.

7 *Is Coordination of Such Diverse Groups of Personnel Possible?*

All 16 PIF members in question are former British colonies or colonies of British colonies,²⁵³ thus English could be used as the lingua franca without too much difficulty. Moreover, the common history and values instilled as a result of this shared heritage suggest the potential for effective cooperation. The successful multilateral coalition of the TMG and PPBP also offers empirical evidence that coordination is possible. Notwithstanding this potential for cooperation as discussed, the PIF is composed of a diverse range of ethnic and

²⁵² Fry, 'Peacekeeping in the South Pacific', above n 134, 4 (emphasis in original).

²⁵³ Except Vanuatu, which is a former condominium of the UK and France.

tribal groups. In some contexts, when placing certain PPMG personnel on the ground, careful consideration would need to be given to their positioning, so as to avoid a hostile reaction from local groups.

H *Benefits of a PPMG*

In its most complete form the PPMG augurs a diverse range of benefits to all PIF members, yet even if only a modified version were adopted many of these benefits could still be realised. The PPMG provides a concrete solution to the PIF's increasing concerns about regional security. Since 1997, every PIF meeting has laid considerable emphasis on the need to address the regional security situation. As recently as 2002, the PIF's *Nasonini Declaration on Regional Security* noted 'the need for immediate and sustained regional action in response to the current regional security environment'.²⁵⁴ The PPMG is a practical and workable solution to address these 'new and heightened threats to security in the region'.²⁵⁵ The PPMG would overcome the inadequacies of present ad hoc arrangements, prevent the spread of terrorism, and reduce the incidence of coups. It could avert humanitarian disasters, prevent the destruction of infrastructure, and provide expert training to PIF members unable to otherwise access it. The economic and other benefits that would flow from peace and security rather than violence and disorder are self-evident.

In the *Aitutaki Declaration*, leaders 'acknowledged that existing arrangements have not provided explicit mechanisms ... to respond promptly and effectively to requests for assistance'.²⁵⁶ The PPMG would overcome many of the shortcomings of present ad hoc responses. It would provide a truly multilateral, independent unit, not subject to any one nation's will, and capable of making an immediate response. The safeguards for its use mean that no PIF member should be threatened by its existence or be reluctant to make use of its services. It offers to provide a trained, cohesive and experienced team, rather than an ad hoc posse of personnel unfamiliar with one another's cultural idiosyncrasies and unsure of basic peacekeeping principles. The permanent nature of the PPMG also gives it the potential to 'evolve' as a group — improving and developing from its experiences.

The PPMG offers Australia and New Zealand a way out of their present 'catch-22'. These countries are currently in a predicament. On the one hand, because the PIF is not a readily available institution through which the region can reach a consensus on intervention, if Australia and New Zealand reply to a unilateral call for intervention they are labelled neo-colonialists by the region.²⁵⁷ On the other hand, if they fail to intervene they are blamed for allowing the situation to deteriorate, and are then looked to by the international community to restore order and rebuild conflict torn island states.²⁵⁸ The PPMG would

²⁵⁴ Thirty-Third Pacific Islands Forum, *Nasonini Declaration on Regional Security* [4], annex 1 to Thirty-Third Pacific Islands Forum, *Forum Communiqué* (Suva, Fiji, 15–17 August 2002) PIF Doc PIFS(02)8 <<http://www.forumsec.org.fj/docs/Communique/2002%20Communique.pdf>> at 1 May 2003 ('*Nasonini Declaration*').

²⁵⁵ *Ibid.*

²⁵⁶ *Aitutaki Declaration*, above n 14, [8].

²⁵⁷ Fry, 'Peacekeeping in the South Pacific', above n 134, 5.

²⁵⁸ *Ibid.* 11.

overcome this dilemma by providing a legitimate multilateral solution. This would save both states money, political reputation in the PIF, and enhance the reputation of their international citizenship (through their agreement to participate in the PPMG).

The PPMG would be most beneficial to smaller PIF members. It offers these islands the only realistic way of defending themselves from internal and external attacks, because establishing their own defence forces or police units is often unfeasible. It also affords them the only practical way of combating new security threats. Furthermore, the interrelated nature of the PIF means that violence in one state affects trade and stability in all the others.²⁵⁹ Regional stability provided by the PPMG would thus be beneficial even to those states that have not had recent experiences of violence.

In the PIF's *Nasonini Declaration*, leaders 'underlined the importance to Members of ... developing national strategies to combat serious crime including money laundering, drug trafficking, terrorism and terrorist financing, people smuggling, and people trafficking'.²⁶⁰ As a well-trained, well-equipped, multilateral force, the PPMG would be ideally suited to patrolling the enormous territory of PIF members, preventing the spread of terrorism, combating drug trafficking and other criminal activities currently plaguing the region.

In the *Honiara Declaration*, '[t]he Forum recognised that proper training of personnel was essential in all areas of law enforcement, and that in many instances current arrangements and resources were inadequate'.²⁶¹ This position was restated in the PIF's *Nasonini Declaration*, in which leaders 'reaffirmed that law enforcement cooperation ... should remain an important focus for the region'.²⁶² The PPMG offers a solution to this. PPMG personnel would receive the highest standard of police and civilian training from regional experts. By rotating their personnel, PIF members could then transfer these skills and knowledge back to their domestic situations where they are desperately needed (possibly even replacing police academies in some situations). This would reduce the risk of coups and conflict in the region.²⁶³

Henderson and Bellamy note that '[t]he most important inhibitor preventing military intervention [into the political domain] is the military's own sense of professionalism'.²⁶⁴ As the PPMG provides expert paramilitary police training in a professional environment and then recruits these same personnel for use in domestic police units, the professionalism of national units could gradually be increased, and would act to inhibit their intervention into political affairs. Other significant factors inhibiting coups include 'the costs and risks of intervention, and the likely response of external powers'.²⁶⁵ The PPMG increases the costs of intervention, because there is the perceived intention (at least) that any coup is likely to be met by the well-trained and well-equipped PPMG. The PPMG as a regional organisation is the equivalent to an external power, and could be

²⁵⁹ Firth, 'A Reflection on South Pacific Regional Security', above n 64, 277.

²⁶⁰ *Nasonini Declaration*, above n 254, [8].

²⁶¹ *Honiara Declaration*, above n 10, [14].

²⁶² *Nasonini Declaration*, above n 254, [6].

²⁶³ Henderson and Bellamy, above n 22, 130.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*

considered likely to be deployed in a number of situations, thereby providing a further inhibiting factor.

The PPMG would deter violence. The threat of the PPMG's intervention would serve as a deterrent to any group contemplating a violent uprising and if from the outset the PPMG proved successful in curbing violence, the chance of its acting as a deterrent in future would increase.

The PPMG also offers a range of other benefits to specific groups. In Bougainville, New Zealand responded to the perceived need for a non-Western force by specifically recruiting Maoris to make up its commitment to the TMG, which proved highly successful. The establishment of the PPMG would give Australia and New Zealand the opportunity to recruit Aborigines, Torres Strait Islanders and Maoris to meet their personnel commitments. This would enhance the legitimacy and capabilities of the PPMG, as well as affording a valuable opportunity to these underprivileged groups.

As already noted, the TMG's gender balance also proved highly successful. The PPMG could build on the TMG's achievement by ensuring that it maintained an appropriate gender balance. This would have the added benefit of encouraging women to participate in similar activities in their own local communities, as well as giving Pacific Island women participating in the PPMG the opportunity to acquire valuable training, which they could then take back to their own countries.

The PPMG would also afford several PIF members the opportunity to downsize their costly national armies because, if it proved successful, they could come to rely on it to afford them protection in times of national crisis. This would offset the costs of their commitments to the PPMG.

Although the PPMG would only have the legal capacity to intervene in matters concerning PIF members, there is the possibility of extending its mandate to include other SPR states in the future. Given the consensual nature of the PPMG, concluding an additional agreement with other non-PIF members would be a distinct possibility, especially if it proved effective early on.

The PPMG would serve as a model for collective security arrangements under the *Charter*. The SPR is a virtual mirror of the international system. Observed as an isolated unit, the SPR contains a single 'superpower' (Australia) that far outstrips all other actors in both economic and military terms. It also contains various intermediate or middle powers (Fiji, New Zealand, PNG, Tonga, the Solomon Islands and Vanuatu), and a host of microstates. Should the PPMG prove successful, it could then serve as a model for a global security force.

IV CONCLUSION

Most Pacific Islands do not have the capacity to defend themselves against any reasonably well-organised attack. Yet for political reasons, past appeals for assistance from threatened island governments have gone unheeded. As a consequence, violence has been left to escalate, causing human suffering and destruction of infrastructure. All SPR Islands are losers in this situation. The larger states are left to rebuild and avert humanitarian disasters, the smaller ones await the spread of violence to their own islands and suffer economic crisis as a consequence of the interrelated environment in which they live. A rapidly

changing security environment threatens to increase the incidence of violence in the region.

The PPMG proposed here offers a realistic, affordable and preventative solution to many of the problems faced by the SPR. It overcomes political obstacles to intervention, by way of its true multilateral composition. It overcomes the delays inherent in present ad hoc arrangements, meaning that emergencies can be prevented from escalating, and that conflict can be contained and order restored at an early stage. The PPMG also stands to deter future violence. It would help avert and counter new security threats facing the region, and could serve a host of auxiliary functions while not engaged on active service. It should be considered in the interests of promoting a pacific Pacific.