

# PACE-NET Plus Bremen Conference and Think Tanks

September 9-11, 2014 | Bremen (Germany)

Traditional knowledge, development and related land and legal issues in the context of food security in Pacific Island countries



**Sue Farran**

# Contents

1. Directions of Development
  2. Impact on land
  3. Intellectual Property vs Traditional Knowledge
  4. Impact on food security
  5. Taro – a good or bad example?
- In the global south post-colonial development is driven by global north discourses on the importance of creating property rights which are familiar to the major players and agents of the global north. This is accompanied by the framing of laws and legal institutions in ways which often not compatible with or sympathetic to the ways in which Pacific societies function

# 1. Title 1 directions of development

- a) Trade impacts on land, the marine environment and natural resources
  - b) Facilitating trade has legal implications ranging from treaty obligations to local contracts
  - c) The legal language of trade does not always accommodate the plural legal systems of the region or the social reality of many Pacific societies
- Regarded as SIDS, LDCs and as countries requiring technical assistance to reach desirable economic outcomes the emphasis is on trade, and linked to this aid for trade, trade agreements and trade facilitating laws, institutions and agencies. The presumption is that these are universally 'good'

## 2. Title 2 Impact on land

- Development initiatives impact on land through:
  - 1. Alienation of land – usually under leases, often to non-Pacific islanders, necessitating relocation or limiting former use and access, and giving rise to introduced institutions such as incorporated land groups, trusts, land corporations etc.
  - 2. Have a physical impact on the land – especially extractive industries but also tourist resorts, urban development, shifts to mono-cropping or cultivation of long-life crops.
  - 3. Rely on different understandings of ‘ownership’, ‘land rights’, ‘group rights’, ‘beneficial interests’. Often fail to understand multiple/nuanced interests.
  - 4. Create social tension, disputes, litigation, marginalisation and new elites, but also room for hybridity and manipulation

## 3. Title 3 Intellectual Property vs TK

- Trade regimes are accompanied by IP obligations eg under WTO, TRIPS, TRIPS+, UPOV etc
- The potential for modification, restriction or limitation of non-customary models is rarely used or is explicitly excluded
- Domestic laws reflect western-centric models, including concepts of identifiable author/creator, point of time and place of origin, limited period of protection, assumption that the conferment of economic rights is needed to motivate creativity/innovation
- TK is marginalised (folklore) or ignored.
- TK is often fluid, secret/semi-secret, oral, inter-generational, closely linked to social reality, transmitted in diverse ways

## 4. Title 4 Impact on food security

- WTO TRIPS plus requires PICs to put in place either patent protection or similar to protect the rights of plant-breeders and those who develop seeds, genetic resources, and plant varieties.
- Climate change, mono-cropping (especially for non-edible cash crops), loss of bio-diversity and vulnerability to pests and diseases, plus loss of TK in food cultivation, storage and preparation lead to food insecurity
- PICs limited access to R and D institutions for crop/plant development
- Inaccessibility via open access to patent protected climate-change resilient hybrids and/or constraints of traditional exchange of plant materials as a result of plant breeders rights
- Poor legal protections of PIC bio-diversity (despite CBD)

## 5. Title 5 A taro example

**The Problem:** Taro blight

**The Answer:** Establishment of Centre for Pacific Crops and Trees (CePaCT) and a taro breeding programme

**The Partners:** USP (Agriculture); Samoan farmers; SPC; the Samoan Ministry of Natural Resources and the Environment (MNRE); Australia (Technical Assistance)

**The Plan:** Taro germ plasm from taro in Niue, Palau, the Philippines and S-E Asia, new seedlings developed primarily by USP in Samoa with technical assistance and funds from elsewhere, cultivated by Samoan farmers involved in test trials.

**The law:** None. No MOUs, no contracts, no IP

**The beneficiaries** In dispute. Open access/patent/plant-breeders' rights? Taro for all or taro for the export market?



## Project partners

