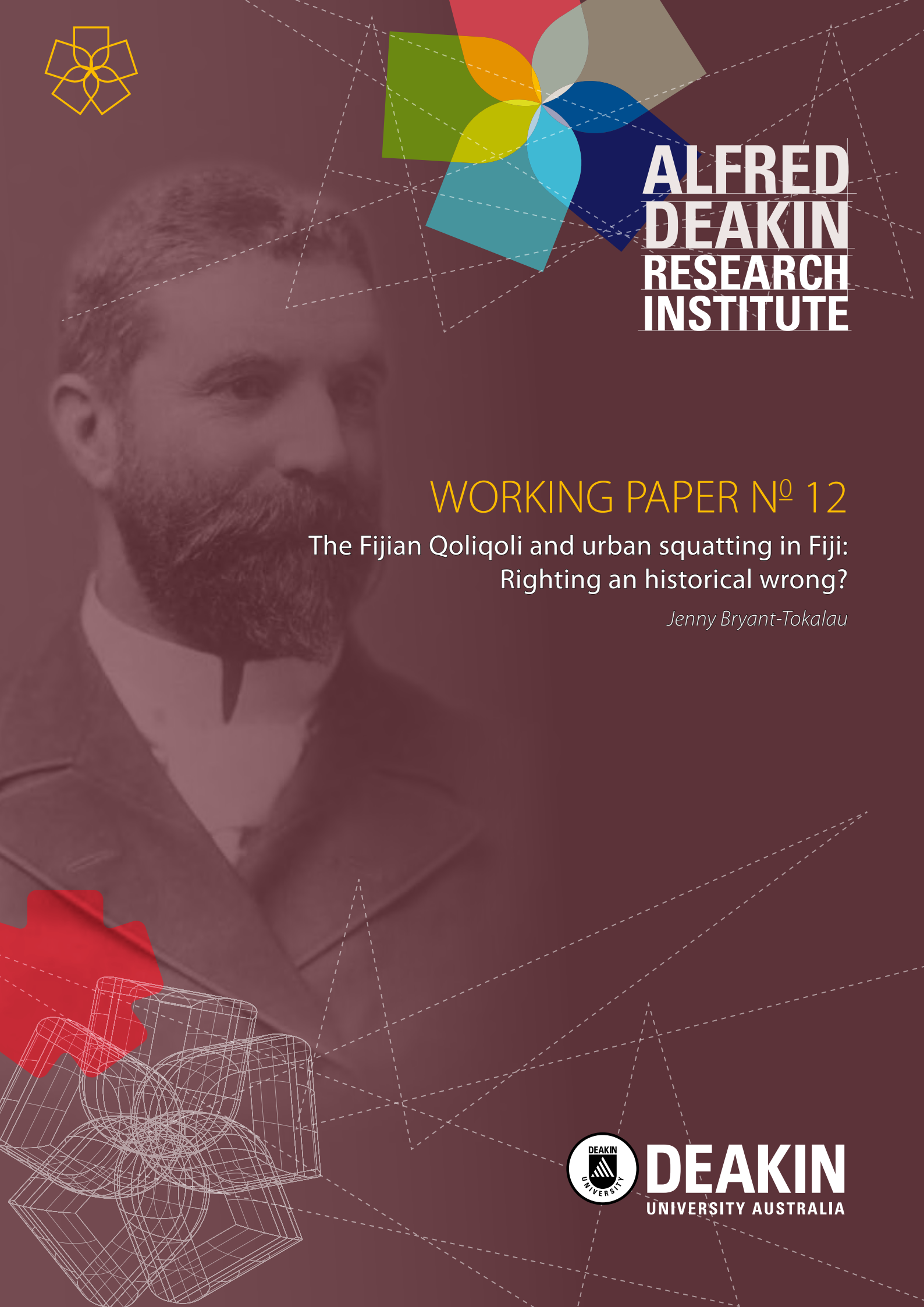

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Jenny Bryant-Tokalau

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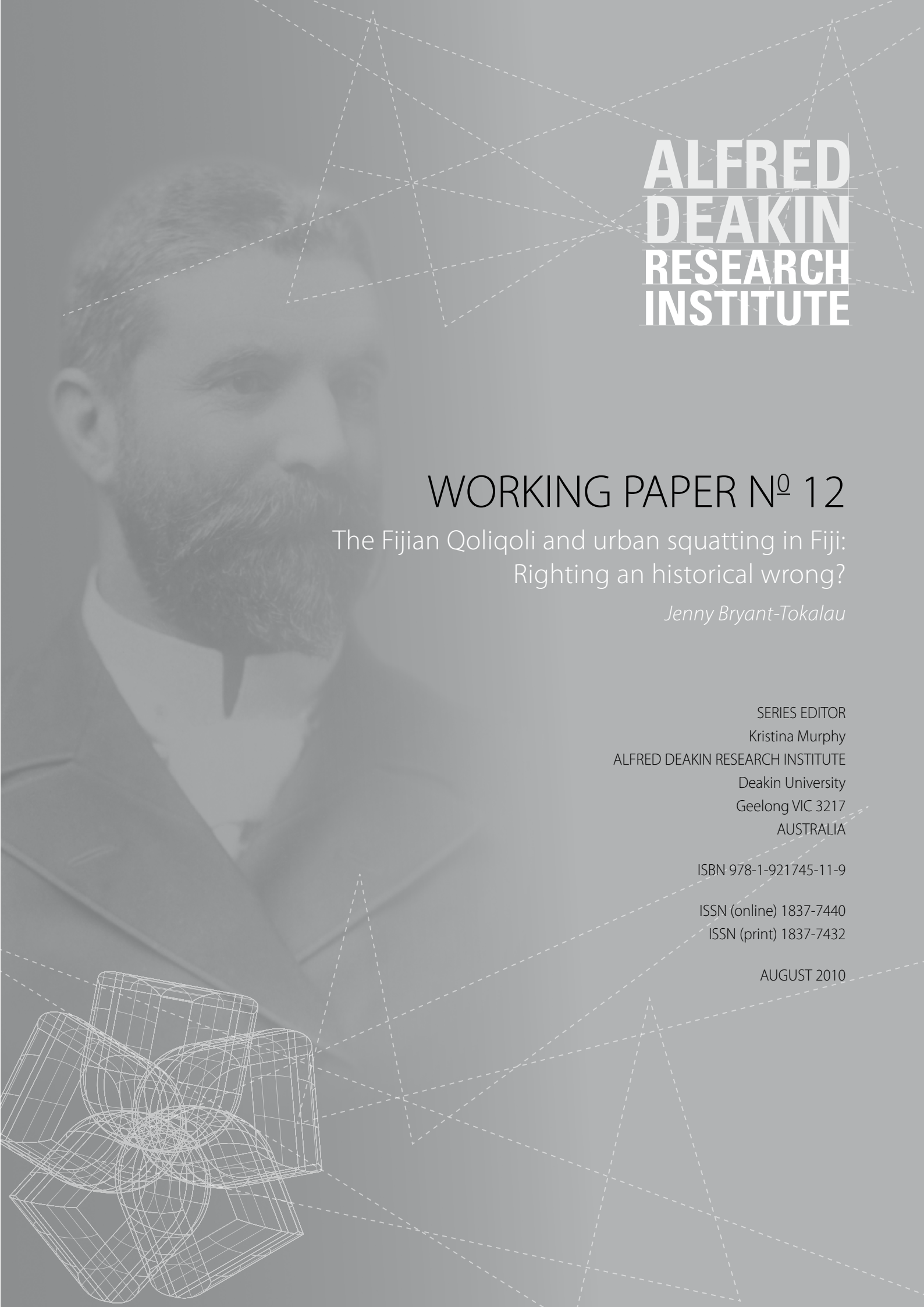

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'Going Finish' or 'Go Pinis'? The ending of the colonial era and the beginning of independence in the nations of Melanesia

From the 12th to the 14th of November 2009, the Workshop 'Going Finish' or 'Go Pinis'? The ending of the colonial era and the beginning of independence in the nations of Melanesia was held at the Alfred Deakin Research Institute. It was attended by participants from Deakin University, the Universities of Otago, Queensland, Wollongong, Papua New Guinea, the South Pacific, Victoria University of Wellington, and the Anglican Church of Melanesia.

At the heart of the workshop was the question of how the process of decolonisation in the southwest Pacific has influenced the contemporary situations of the region's people. Presenters addressed themes that included how independence was imagined by the citizens of the new states; what was the influence of non-government organisations; and how independence was shaped by some of the underlying cultural and social patterns in each nation.

This paper was presented at the Workshop.

‘The Fijian Qoliqoli and urban squatting in Fiji: Righting an historical wrong?’

Jenny Bryant-Tokalau

ABSTRACT

The most recent Fiji coup in 2006 was partially carried out as a response by the military commander, Commodore Frank Bainimarama to three pieces of legislation being debated by the then Qarase government. One of those proposed pieces of legislation was the Qoliqoli Act. This Act was intended to ensure that the rights to the seabed, foreshore and indigenous fisheries of Fiji are invested in indigenous land owners. Management would be under a Qoliqoli Commission. This legislation, although now stalled, may well be revived and could be at the root of future disharmony in Fiji, particularly in urban areas.

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INTRODUCTION: HISTORY OF THE *I-QOLIQOLI*

The Qoliqoli is essentially land or coastal land water courses right out to the reef including traditional fishing grounds which has not yet been returned to native land owners of Fiji. There are approximately 386 marine 25 and freshwater areas classed as qoliqoli (Techera and Troniak, 2009: 29). Under the Deed of Cession Fijian land was initially given to Queen Victoria (Baledrokadroka, 2003: 4), but the chiefs of Fiji trusted the Crown to take care of it for them and that eventually, they would get it back. Indeed under Governor Gordon and the establishment of the Native Land Commission the land was returned despite opposition from planters particularly early white settlers. The Qoliqoli, the traditional fishing grounds and water courses of Fiji were considered by the chiefs to be part of that, to be treated the same as land. Governor Gordon agreed with chiefs that the Qoliqoli would come back under native title. He tried hard to get it back but didn't succeed in his term as governor then subsequent governors tried. For example Des Voeux who was an ex-governor tried to get this through but there was always opposition from planters and (Baba, 2006) it was taken back to Houses of Parliament in England. The Qoliqoli or the coastal land has never been returned to Fijian control and is owned by the State. Under the Qarase government, the 'Blueprint for the protection of Fijian and Rotuman rights' (Government of Fiji, 2000) and a Qoliqoli act promulgated in 2005 aimed to right this perceived historical wrong.

The attempt to bring in Qoliqoli act was one of the three reasons that Frank Bainimarama used for staging the coup of 2006. He was concerned by the act particularly because tourist operators (and obviously all the hotels in Fiji are on the coast), were concerned that if the coastal land and the sea area out to the reef, reverted to traditional ownership, there would be claims from landowners over tourist activities. On the part of indigenous Fijians, there have also been several cases of communities being denied access to 'their' fishing areas and reefs as a result of tourism and the (in law) ownership by the State. In practice many hoteliers have useful discussions with Fijians over the years and in many cases they work with the local mataqalis, employ local villages and enable access but there are still restrictions merely because of the existence of tourism (Waqaisavou, 2001; RawFijiNews, 2006).

Along with the concern about how hoteliers would react to the Qoliqoli legislation is the knowledge that tourism is the back bone of the Fiji economy and that as an income earner for Fiji it surpassed sugar, and a lot of employment is found in the tourism industry so presumably, although not explicitly stated, the concern was that the Qoliqoli legislation would impact on the tourism market and thus the economy would go down.

Urban land

Apart from the issue of tourism, much of Fiji's urban housing and businesses, along with recreation facilities and squatters reside on the Qoliqoli. Urban areas are largely coastal, and despite the removal of many from their traditional land areas, many utilize the qoliqoli for fishing, gathering shellfish, building and gardening. There are now more than one hundred and eighty squatter settlements in Fiji housing somewhere between 80 and 100,000 people (Mohanty, 2006: 66). The Qoliqoli is also an important source of livelihoods for the general urban population because many people use coastal resources for fishing at weekends, or at nights, and many living in towns garden in areas that are otherwise unclaimed. The Qoliqoli is thus a very rich food source, a source of livelihood for the urban population many of whom have been removed from their traditional land or have voluntarily left their land for periods of time.

Current status of the qoliqoli

Despite Bainimarama's purported concerns for a more stable Fiji, free of corruption and inequality, on-going breaches of human rights, give much cause for concern. His fears however that Qarase's Qoliqoli Bill would alienate people from the coastal areas may well be justified, but it is difficult to reconcile demands of indigenous people for land which they had always considered to be theirs with free access of all. To further complicate the matter of coastal land, the growing numbers of squatters[1] in the i-qoliqoli, largely as a result of expiring cane leases[2] but also because of growing urbanisation will continue to put pressure on these areas whether they return to indigenous ownership or not.

The issue which has not been adequately discussed or even recognized is how would the *Qoliqoli* legislation (if ever enacted) impact upon the urban poor, specifically on the squatters. Many people (not only indigenous) rely to a large extent on gathering from the sea shore, diving, fishing and recreational use. The legislating of the foreshore into landowner hands will at times lead to conflict and misunderstandings and this has already occurred to some extent. In Suva for example, where squatter settlements on coastal areas are growing rapidly, some customary owners are preparing for 'ownership' by demanding rent, or outright removal of communities who have lived in these areas, sometimes for generations. Urban settlements which have existed for as long as forty years in mangrove areas around Suva, and where permission to build has been granted by vakavanua agreement with land owners through a sevusevu or traditional presentation of kava *(piper methysticum)* or a *tabua* (whales tooth), may no longer have security (Kiddle, 2009:23). Younger generations of landowners, seeing the possibility to earn large rents or to utilize land for other purposes, may terminate long-held agreements. Some of this is happening already and the impact will be greatest on poorer sections of the community (both indigenous and otherwise) who have limited options.

Whether or not some compromise is ever reached over the details of the Bill and whether or not it ever becomes law is still in doubt. The question of ownership of traditional fishing grounds and rights to the foreshore are likely to arise again in the future, despite the current suspension. Wide consultation and recognition of the squatter situation is therefore imperative.

Much current debate over Fijian land and land rights surrounds the expiry of agricultural leases and the impact on rural cane farmers. Other commentary surrounds the migration of dispossessed farmers to urban areas and the impacts on land there, particularly in the mushrooming squatter settlements of the main towns [see, for example Larry Thomas's 'Struggling for a Better Living: Squatters in Fiji'] but there has been very little commentary on the possible consequences of returning the *qoliqoli* to traditional landowners. What is clear is that there is a mismatch between what indigenous or customary landowners view as property as defined in the national legal framework.

More recent (February 2008) plans to re-reserve all native land (87.1% of Fiji's land) and subsequent compensation to land owners may bring about additional areas of conflict. It is not yet clear how the de-reservation will impact on squatters and the qoliqoli since this land currently belongs to the state (*Fiji Times* 17 February 2008). What is likely however is a movement of squatters from native land to the *qoliqoli* thus bringing about more pressure. Questions such as access to the qoliqoli have yet to be resolved and are likely to become even more conflicted if the de-reservation of native land does take place.

1 Between 1999 and 2003 the Fiji government estimated that squatting had grown b 78%, with 60% of approximately 80,000 squatters living in the greater urban area between Suva and Nausori (Mohanty, 2006)

2 It is estimated that around 13,000 sugar cane leases will expire between 1999 and 2028 (Storey, 2006:15), possibly displacing as many as 75,000 people.

Since Bainimarama took power, formal efforts at resettling Fiji's squatters from all types of land have continued. Some old established settlements, such as Jittu estate in Suva, on land owned by the Methodist church, is being redeveloped and housing standards and facilities improved. This has meant the displacement of up to 300 families, many of whom have lived in the area for 30 to 40 years (Kikau, 2009).

The Housing Authority has plans to move Suva squatters onto land which is further inland out towards Nausori but despite efforts to improve their living conditions, the squatters will then be a very long way from their source of income, subsistence and networks. The sheer numbers of squatters involved make it unlikely that all will be adequately resettled, or even should be, thus issues of use and ownership over urban land are likely to continue.

If the Qoliqoli legislation is ever enacted the future of urban areas would have to be very carefully considered and there would have to be consultation with people living in these areas. Many of the squatter settlements are on the Qoliqoli and so practically they are on customary land (if not in legal fact). If ownership can be proven to traditional land owners it would be hoped that through negotiation and discussion arrangement would be made between land owners and settlers. In reality there has already been some conflict and certainly disruption. There have been a few cases in Suva for example where land owners have asked for people to move because that land is regarded as theirs and they now want to do something else with it. This includes urban land much of which is on native lease, under the Native Land Trust Board. Some settlers have already been moved because of development of land for industry, factories or housing. Squatters on the Qoliqoli have little security, and even the *vaka vanua* arrangements (traditional negotiation with land owners) probably won't hold because they are not formal. In addition there are younger generations of land owners returning from overseas with money and education, and different expectations and less understanding or sympathy for squatters. Chances are that the people will be moved off.

Where squatters live is very important to their survival because many of these people have come from villages or isolated rural settlements where they could largely provide their own food and go fishing. Living in a squatter settlement close to the coast or up a river provides settlers with a source of food and other resources.

Qoliqoli Act 'Back on the Table' ?

Reasons for Bainimarama's opposition to the Qoliqoli Act are possibly now clearer as he attempts to give everyone an equal chance in Fiji through reducing corruption and opposing racial division. Although the impact of the return of the qoliqoli to indigenous ownership was purportedly opposed because of the potential loss of tourism investment, it is beginning to appear as though the perceived dangers of ethno-nationalism may have been more important.

If the Qoliqoli legislation is ever revived, people living in the coastal areas or utilising the Qoliqoli for their livelihoods will still have to come to an arrangement with traditional land owners. To quote Baledrokadroka, drawing on Ravuvu (1983):

> *In pre-European contact times the yavusa or vanua land-holding unit usually held tenure over adjacent mangroves, lagoons and reefs, together with exclusive ownership of sea floor, water, marine life and rights of passage. This is unlike land, the rights to which are held by the mataqali'. … The qoliqoli are an integral part of the tribal land-sea 'estate' (vanua) that extends from central watershed seawards… Fishing rights areas extended from the high-water mark to the outer reef. The adjacent right-holding group did not always traditionally own areas beyond the reef. These fishing rights areas worked communally'* (p. 29).

Given the supreme importance of the vanua to indigenous Fijians, it is difficult to imagine that the affinity to the land, which is the heart of Fijian social and physical identity, even with advancing urbanisation will be lessened. The urban population is continuing to grow and so the pressure on land will continue to be intense. All urban land is likely to come under the spot light in the next few years and it is quite possible that the Qoliqoli legislation in particular is going to have to be dealt with.

Conclusion

The *Qoliqoli* issue is therefore complex. There is an obvious conflict now between what are indigenous rights to land and equal access for all. Nowhere is this more obvious in Fiji's rapidly expanding urban squatter settlements where displaced, poor people of all ethnicities are moving both from traditional villages in other parts of Fiji, as well as from expiring cane leases. Many of these people (possibly as many as 100,000), need to obtain their livelihoods from the *Qoliqoli*, making the area highly contested. It is hoped that fairness and reason will prevail and that 'landowners' (historically or under current law) will be open to use of these areas of *Qoliqoli,* but under the current circumstances of political uncertainty and growing poverty this may not be so easy.

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