
Social work and international justice: Is there a link?

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Abstract

This article explores the ways in which a social work and human rights career have points in common. It also considers the issue of human rights law and the challenge to implement internationally agreed norms.

If I were to write a 'retrospective' looking back over a social work career that spans more than 40 years there would not be an upwards career trajectory to record. I began as an uncertain 'social work trainee' in the long-defunct Social Security Department and I now work as a social worker (and Needs Assessor) in a rehabilitation setting in a large hospital. I remember supporting older people to access home help services to maintain their independence in chilly Dunedin in the late 60s just as I do now in warmer Auckland!

Don't get me wrong – I still find my work fresh and new. I think that is something to do with the endless variety of people and situations, and the delightful way our clients keep beating our predictions for them.

There were some teaching stints along the road, especially in micro-skills listening and counselling skills – essential building blocks for effective practice in my view. And alongside my paid job, a second 'career' in peace and human rights lobbying. I have never found the two roles to be incompatible – issues of justice and advocacy are central to both.

Social workers analyse domestic education, health and welfare policies and work with others to change policies and practices that are inequitable. As our Code of Ethics states it is an obligation of the profession 'to promote social justice, in relation to society generally, and in relation to the people with whom they work' (Aotearoa New Zealand Association of Social Workers, 2008). This is not always a straightforward task as it often involves a conflict of loyalties and the challenge of trying to change policies and practices from within government or government-funded organisations. It is also not straightforward to define social justice and equity. We have probably all been party to heated debate about issues such as means testing and affirmative action programmes.

Human rights can offer a complementary framework. Social work lecturer Elisabeth Reichert says that a human rights perspective can 'provide a much clearer framework and

structure with which to connect the social work profession to economic, social and political aims' (Reichert, 2003).

The United Nations Universal Declaration on Human Rights celebrates its 60th anniversary this year. Sadly many of the Declaration's individual freedoms and rights are widely violated in every corner of our world, including here in Aotearoa. Article 5 affirms that no one 'shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment'; a right that I would argue is regularly violated in our schools, residential care facilities, prisons and homes (United Nations, 1948).

However, the Declaration has come to represent our shared aspirations for a world where human dignity is upheld and human needs are respected. It remains the undisputed 'gold standard' of rights that transcend custom and culture.

Domestically, campaigners against child poverty have used New Zealand's human rights commitments to challenge government tax policy that discriminates against the children of beneficiary parents. The Child Poverty Action Group has made this legal challenge using the provision in the Human Rights Act that prohibits discrimination on the grounds of being a beneficiary (Child Poverty Action Group, 2008).

Internationally, we live in the era of 'globalisation' and the so called 'free market' in which citizens of the developing world are vulnerable to exploitation as never before. National governments are often powerless to promote the economic wellbeing of their people because of the power of unaccountable multinational corporations. Each year an estimated \$US1 trillion is spent on the military while 850 million people have to go to bed hungry each night. Short of global 'regime change' is there any hope for international fairness and justice?

Human rights law offers a glimmer of hope. In Sierra Leone and in Cambodia special courts are hearing cases of war crimes. International criminal trials have held to account war criminals from Rwanda and the former Yugoslavia. In the United States President Bush has been told by the Supreme Court that the ancient rules of habeas corpus still apply and it is not legal to detain suspects at Guantanamo without formally charging them and bringing them before a civilian court.

Although the focus is largely on historic injustice, this may be the essential first step to establishing just governance in the present. The domestic parallel is obvious: we need to address the land confiscations and injustices of our colonial past and rebalance the ledger so that the Treaty partnership of today has a chance to be grounded on fairness and mutual respect.

As Vatican representative Archbishop Leopoldo Girelli proclaimed during his recent visit to Timor-Leste:

Justice requires the full implementation of legal provisions. Justice requires respect for the fundamental rights of each individual. At the same time justice cannot be separated from love, fraternity and solidarity, factors that promote reconciliation. That is why in the world today justice and reconciliation go hand in hand. There will be no true and lasting peace without justice (Girelli, 2008).

There is no international tribunal in the offing for Timor-Leste even though its people endured a brutal 24-year military occupation. At least a quarter of the population died as a direct result of the ongoing conflict, including many deaths from preventable famine. The people finally won their freedom in 1999, despite the huge disparity in their size and strength compared with Indonesia, the occupying power. It is true that there were other factors, including support from within Indonesia and a very extensive international solidarity network, but these were secondary to the resilience of the Timorese themselves.

Is New Zealand a strong champion for the use of international legal mechanisms? It depends on the issue. In the 1970s and again in the 1990s New Zealand took France to the World Court in The Hague over its Pacific nuclear testing programme. A movement of New Zealand citizens, inspired initially by retired Christchurch magistrate Harold Evans, successfully lobbied for government and international support for their 'World Court Project'. The Court was asked by the UN General Assembly to deliberate on the legality of nuclear weapons and in a historic judgment the International Court of Justice in 1996 declared the use and threatened use of nuclear weapons to be 'generally ... contrary to rules of international law' (Dewes and Green, 1999). These initiatives should be a source of pride to all New Zealanders.

But sadly, when it comes to Timor-Leste and the need for the Indonesian Generals to be held to account for crimes against humanity, while our Government says it believes there should be accountability – there are no actions to back the words. Instead, Foreign Minister Winston Peters says in a recent letter to the Indonesia Human Rights Committee: the Government is supporting justice programmes in Timor-Leste and the work of the Timorese human rights ombudsman or *Provedoria*.

Of course we are not on our own in failing to challenge Indonesia. Other western governments and the United Nations itself have let matters slide even after funding investigation processes such as the Timor-Leste Commission for Reception, Truth and Reconciliation. This Commission produced a 2,800 page report in 2005 known by its Portuguese name 'Chega!' ('Enough' in English). The report is a shining jewel of immensely thorough and even-handed documentation and structural analysis of violence stretching back for 25 years. Researchers interviewed nearly 8,000 surviving witnesses and mined the previously confidential documentation obtained from the international actors – the western governments that backed the Indonesian occupation and the United Nations itself.

The Commission, known by its Portuguese acronym as CAVR, also conducted a community reconciliation process bringing together communities who had taken Indonesia's side during the occupation with those who had backed the resistance. There is a moving documentary called 'Passabe' (made in 2006 by Singaporean film makers James Leong and Lynn Lee) which depicts one such village process and is well worthy of study for anyone with an interest in restorative justice.

However, the CAVR recommendations call for justice and reparations as the counterparts of reconciliation. Justice remains elusive while the generals and other key perpetrators of the human rights crimes are out of reach in Indonesia. Reparations should be forthcoming from the western governments, including our own, which actively supported Indonesia during the occupation years and provided Indonesia with military training (Leadbeater, 2006).

For the moment the Timor-Leste leadership has opted to downplay the CAVR process in the interests of good relations with their powerful neighbour. Timorese and Indonesian human rights groups and Timorese victims object to this 'forgive and forget' strategy, but it offers a handy excuse for inaction to the New Zealand Government.

I don't think New Zealand will succeed in keeping the door closed on its Timor-Leste past. For one thing it still has to reckon with the forces that are determined to see a just outcome in the case of the 'Balibo Five', the case of the five young journalists working for Australian TV who were killed in what was then Portuguese Timor in 1975. Last November, in Sydney, a remarkable inquest delivered its findings and recommendations about the deaths of the five, one of whom was Gary Cunningham, an award-winning New Zealand cameraman (Inquest into the Death of Brian Raymond Peters, 2007). The Coroner, Dorelle Pinch, said that the 'truth is never too old to be told' as she proceeded to deliver a report that demolished the 'killed in crossfire' version of how the young men died. The Balibo Five were deliberately killed even though all were dressed in civilian clothes and all had raised their hands in a gesture of surrender. Yunus Yosfiah, the Indonesian commander (who now sits in the Indonesian legislature as a member of the People's Consultative Assembly) was almost certainly acting on orders from the highest levels of the Indonesian military. The Australian Attorney General has been asked to consider a war crimes prosecution, under the terms of the Geneva Conventions.

In the months leading up to October 1975, Indonesia had conducted a strident anti-communist propaganda campaign against Portuguese Timor's pro-independence movement and its military forces were covertly engaged in operations with Timorese 'volunteers'. The governments of Australia, Britain and New Zealand had already secretly been given advance warning of Indonesia's plans for direct military intervention.

Had the film taken by Gary and the reports of his colleagues reached the outside world, their documentation would have revealed heavy bombardment of the border area from land and sea taking place under the direction of an Indonesian helicopter. Evidence at the inquest underlines the courage of the five who when advised to leave wanted to stay 'un momento' longer to get as much on record as possible. Indonesia's strategy depended on secrecy so if the story had been exposed events may have played out very differently. The Timorese regard the men as martyrs.

I tell this story, not only because it fascinates me, but also because it is another illustration of the drive towards a universal human rights jurisdiction that is more than fine words and grand declarations.

Our Government takes a low key 'wait and see what happens in Australia' approach to the Balibo crime and would be happier to have the focus on the good work of NZAID in Timor-Leste today. But forgetting the lessons of the past has major consequences – for example the value placed on our relationship with Indonesia still rules out anything other than quiet diplomacy with respect to ongoing human rights abuses in Indonesian-controlled West Papua. Representatives of the Melanesian West Papuans would like New Zealand support for their campaign to have the United Nations review its role in the discredited self-determination referendum of 1969: the 'Act of Free Choice', since dubbed the 'Act of No Choice'. And they would like our backing for their wish to have observer status at the

Pacific Islands Forum (Leadbeater, 2005). But instead our Government supports 'Special Autonomy' for the territory – a status the Papuans say has given them no genuine advances in wellbeing or control over their own affairs. Defence ties with Indonesia have been resumed despite nil progress in military accountability for the crimes in Timor-Leste.

So you could sum it up 'win some and lose some' and for me that itself is a strong reason to keep going. We do have the power collectively to influence our Government to act with decency and fairness in its international affairs. We also have the freedom to act and to lobby without fearing punishment. There is an apt appeal often used by activists living under oppressive regimes: 'please use your freedom to protect ours'.

In the past some election campaigns did feature moral issues such as apartheid sport and nuclear warship visits. This time around it is more likely that international affairs will be under the radar as most politicians choose to talk about tax cuts and policies that they believe will directly appeal to voters. We could all help to change that by challenging political parties and candidates to stand up for justice for historic crimes and accept New Zealand's share of the blame.

References

- Aotearoa New Zealand Association of Social Workers (2008). *Code of Ethics*. Christchurch: Xpress Printing House.
- Reichert, E. (2003). *Social work and human rights: A foundation for policy and practice*. New York: Columbia Press.
- United Nations (1948). *Universal Declaration of Human Rights*. Adopted by General Assembly Resolution 217 A(111) 10 December, 1948.
- Child Poverty Action Group (2008). *Legal case addresses hole in safety net for poorest children*. Retrieved 6 August, 2008 from <http://www.cpag.org.nz/news/cpag-news/nr1212471513.pdf>.
- Leadbeater, M. (2006). *Negligent neighbour: New Zealand's complicity in the invasion and occupation of Timor-Leste*. Nelson: Craig Potton.
- Dewes, K. & Green, R. (1999). *Aotearoa/New Zealand at the world court*. Christchurch: Raven Press.
- Timor-Leste Commission for Reception, Truth and Reconciliation (2005). *Chega!* Retrieved 25 June, 2008 from <http://www.cavr-timorleste.org/>.
- Inquest into the Death of Brian Raymond Peters: Magistrate Dorelle Pinch Coroner*, Sydney, Australia, 16 November, 2007. Retrieved 25 June, 2008 from <http://www.etan.org/etanpdf/2007/Peterssinquest1.pdf>.
- Girelli, L. (2008). *Vatican: No peace without justice in the promised land of Timor-Leste*, 15 June 2008, Address at the blessing of the new statue of Pope John Paul II at Tasi Tolu, Dili. Retrieved on June 25, 2008 from http://www.easttimorlegalinformation.org/Miscellaneous/vatican_representative_indonesia_no_peace_without_justice.html.
- Leadbeater, M. (2005). Expediency, hypocrisy and policy. In J. Henderson and G. Watson (Eds.) *Securing a peaceful Pacific*, pp. 492-500. Christchurch: Canterbury University Press.
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