

## THE CRIMINALISATION OF HIV/AIDS IN THE PACIFIC ISLANDS:

### *Why using the criminal law to fight HIV/AIDS is not the answer*

#### Introduction

There is presently no cure for HIV and AIDS is a disease that kills. These truths can provoke emotional, knee jerk responses when it comes to the potential role of law in fighting HIV and AIDS. Our collective vulnerability to infection scares us. Accordingly, the suggestion that it should be a criminal offence for a person living with HIV/AIDS to infect another person is not uncommon. We want to believe that the heavy hand of the criminal law can protect us.

Indeed, the experience in other countries demonstrates that this belief in the criminal law is on firm ground. In Australia, New Zealand, U.S.A., Canada, France and the U.K, there are numerous instances of people living with HIV/AIDS being charged under existing criminal legislation for transmitting or attempting to transmit the virus. In the Pacific, the Fiji Law Reform Commission published a report in 1999 recommending amendments to the Penal Code including the creation of a new HIV-related offence. Although these amendments have not yet been passed into law, a preoccupation with using the criminal law to manage the threat of HIV continues (as demonstrated by a recent string of press releases from Fiji in December 2005).

The one question remaining, however, is why? Why do we think that the criminal law, and specifically the creation of an HIV/AIDS related offence, will protect us from infection? Since HIV/AIDS prevalence remains low in the region, our primary concern must be to prevent the spread of infection. So does such an offence actually contribute to this goal? Moreover, is the creation of such an offence an effective policy response to the HIV/AIDS epidemic in the Pacific region?

This discussion paper is an excerpt from a larger paper which examines existing criminal code provisions in the Pacific and their suitability for use in cases of wilful, reckless or negligent transmission of HIV. This particular portion of that paper focuses on the pragmatic and principled reasons for why creating a HIV/AIDS specific offence, or – for that matter - relying on the criminal law at all, is not an appropriate course of action for Pacific Island countries to take.

#### Existing Criminal Code Provisions

When people talk about “wilful” or “intentional” transmission of HIV, they are *usually* imagining situations where a PLWHA purposefully or deliberately infects another person with HIV. Intent or a person’s “state of mind” is an important element of the offence because in general, the criminal law is fault-based – it is interested in both a person’s guilty acts *and* their guilty mind.

All countries in the Pacific have criminal laws which contain a smorgasbord of offences that could be applied to instances of criminal behaviour where HIV is transmitted. For example, most Pacific countries have offences like: Grievous Bodily Harm; Criminal Nuisance or Common Nuisance; Assault (causing bodily harm); Rape; or Criminal Negligence – all of which are provisions typically used in other Commonwealth countries for dealing with some cases of HIV transmission. Although there are various evidentiary and penalty-related issues to consider when using these existing criminal code provisions, as the successful prosecution of PLWHA in other countries indicates, this is not a difficult obstacle to overcome.

In addition, in some Pacific jurisdictions it is already a criminal offence to spread a dangerous disease. For example, in Fiji, the *Penal Code* provides:

Any person who unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, is guilty of a misdemeanour.

Similar, if not identical, provisions exist in Tuvalu, the Solomon Islands and Kiribati. Section 223 of the Cook Islands *Crimes Act* also provides:

Every one is liable to imprisonment for a term not exceeding fourteen years who wilfully and without lawful justification or excuse, causes or produces in any other person any disease or sickness.

To date, no person living with HIV/AIDS (PLWHA) in the region has ever been charged with unlawful infection. For that matter, no PLWHA in the Pacific has ever been charged with a criminal offence for transmission or attempted transmission of the virus.

### **Creating an HIV/AIDS-specific Transmission Offence**

The crux of the concern with using existing provisions of criminal codes is that the pre-existing offences don't specifically deal with HIV/AIDS and thus aren't clear as to what exactly constitutes criminal behaviour in the context of HIV infection. This is a legitimate concern.

In 1999, in response to these concerns, the Fiji Law Reform Commission released a report on the Reform of the Penal Code and Criminal Procedure Code. One of the suggestions for reform was the creation of an HIV-specific criminal offence. Specifically, the Commission recommended amending the Code to include the following:

- (1) A person who places another person in danger of contracting a serious disease:
  - a. Intending that the other person contract the disease; or
  - b. Being reckless as to whether or not the other person contracts the disease,is guilty of a felony and is liable to imprisonment for 14 years.
- (2) A person places another person in danger of contracting a serious disease if the person causes the other person to be exposed to an appreciable risk of contracting that disease, even if the risk is low.

The report goes on to suggest that the meaning of "serious disease" be defined to include HIV infection.

It is arguable whether this provision actually improves upon the pre-existing provisions (like the unlawful infection provision) in Fiji or other jurisdictions' criminal statutes (aside from increasing the sentence/penalty to an emphatic fourteen years). Some of the evidentiary concerns raised by other pre-existing provisions are equally applicable here. Further, this provision has never been implemented. Nevertheless, the Commission was legitimately concerned with protecting the public from the spread of HIV/AIDS infection and was attempting to do so through the vehicle of the criminal law. The question remains whether further attempts to reform the law are warranted and/or whether the criminal law is an effective tool for HIV transmission prevention in any event.

### **The purpose of Criminal Law**

The underlying assumption of those who call for an HIV-related offence is that the criminal law can successfully be used to control or eliminate high-risk behaviour which transmits HIV/AIDS. The belief is that criminal sanctions will:

Punish the offender for morally blameworthy behaviour;

- Publicly denounce the blameworthy behaviour;
- Deter the offender and others from engaging in high risk behaviour;
- Prevent the offender from harming other people; and
- Rehabilitate the offender so that he or she will not engage in the prohibited conduct once released from prison.

Before a new HIV-related offence is created, however, it is important to examine whether creating an HIV-related offence will actually serve these functions.

(i) *Retribution*

Retribution is the idea that certain conduct is worthy of punishment because it is morally wrong. The problem with an HIV-related offence, indeed the problem with criminalizing HIV transmission at all, is in identifying the morally culpable behaviour. In the Pacific region in particular there is a risk that existing moral beliefs will become the basis for punishing certain individuals. For example, some people might conclude that men who have sex with men, sex workers, or intravenous drug users all deserve to be punished regardless of whether they intended to cause harm simply because they are already seen as morally blameworthy individuals. There is also a risk in creating a specific HIV-related offence that being HIV positive itself will be viewed as morally blameworthy. Making HIV/AIDS the focus of the offence rather than the actual culpable conduct only serves to reinforce existing stigmatizing and discriminatory attitudes about persons living with HIV/AIDS. General provisions, on the other hand, do not carry this risk to the same extent as they are applied to a wide variety of misconduct. Attention is more appropriately placed on the behaviour and not on the offender.

In addition, if a person doesn't know he or she has HIV, is that person deserving of punishment? What if the person knows they have HIV but takes the proper precautions? What if the person is simply negligent in transmitting the virus but didn't actually intend to cause harm? As stated above, punishment in criminal law is usually focused on the "guilty mind" behind the prohibited conduct. Criminalizing unintentional acts is therefore contrary to this general proposition. While Fiji's suggested reforms are consistent with this theory, as the recommended provision makes intent or recklessness a necessary element of the offence, it is also true that most of the other applicable offences in criminal statutes require intent or recklessness as the necessary state of mind. Accordingly, it would seem that pre-existing offences are already able to adequately punish those individuals who possess the necessary guilty mind.

(ii) *Denunciation*

The purpose of denunciation is to publicly condemn the offender's culpable actions. No doubt an HIV-related offence will serve this purpose. The question is whether an HIV-related offence will overly serve this purpose. In the Pacific region, there remains a certain level of hysteria when it comes to HIV/AIDS. A specific "HIV crime" could simply add fuel to the fire. The pre-existing offences are a more appropriate mechanism for denouncing culpable conduct. Since they are of general application, there is less of a risk of creating more fear and misunderstanding about people living with HIV/AIDS.

(iii) *Deterrence*

It is generally assumed by those calling for law reform that the threat of criminal prosecution will deter both the offender and other people from engaging in the high-risk behaviour which transmits HIV/AIDS. However, it is doubtful that creating an HIV/AIDS specific offence will actually serve this purpose any better than existing criminal provisions. It is very rare that a person purposefully exposes another person to a dangerous disease like HIV/AIDS. And in a region where condoms, blood testing and post-test counselling services are often inaccessible, people living with HIV/AIDS might not always have the knowledge or means of protecting their sexual partners (or fellow intravenous drug users) from the spread of infection.

The principle of deterrence and criminal sanctions against HIV transmission in general presuppose that people living with HIV/AIDS make a deliberate choice about whether or not to engage in high-risk behaviours like having unprotected sexual intercourse. This is not always the case. Condoms are not consistently accepted as part of the culture and/or are not readily available. Promiscuity is difficult to control especially in Pacific cultures where polygamy or multiple sex partners are encouraged. The low status of women suggests that women may be unable to safely disclose their own HIV status or ask for safe sex from their partners. Finally, lack of economic opportunities and stigmatization of those already living with HIV/AIDS can lead to denial about one's HIV positive status which in turn contributes to an increase in high-risk behaviour. As other authors have suggested, coming to terms with an illness like HIV/AIDS is a difficult process and the criminal law may not be an effective tool for compelling changes in sexual behaviour:

...The criminal law is not a likely vehicle for deterring such behaviour. In most cases where the criminal law has been used against AIDS carriers there was no motive or advanced planning. Spontaneous behaviour driven by human anguish, despair or passion is difficult to prevent.

Neither general criminal sanctions nor a specific HIV-related offence can adequately address these systemic problems. It is the systemic problems which must first be tackled before the criminal law can have any effect in deterring others from engaging in high-risk behaviour.

(iv) *Prevention of Harm*

It seems a given that incarcerating people living with HIV/AIDS who have put others at risk of infection will aid in the prevention of the spread of the disease: Prisons as pseudo-quarantine. However, the creation of an HIV-related offence will not serve this purpose any better than existing provisions and in fact may have the opposite effect.

HIV/AIDS and other sexually transmitted diseases often flourish in prison environments. In many prison facilities, health care services and education about disease prevention is scarce. High-risk behaviour may also be more common. Rather than preventing the spread of the disease, putting people living with HIV/AIDS in prison may actually lead to an increase in HIV infections amongst the prison population. And since most offenders are eventually released, if they haven't already died of AIDS, they will then take the infection back to their communities. Other offenders may become infected without even knowing it.

Incarcerating people living with HIV/AIDS also does nothing to solve the systemic problems associated with the disease. Offenders are already at a disadvantage when they are released from prison. It is often difficult to find work or a place to live, and families might want nothing to do with them. This is more likely to be the case for an HIV positive offender. This further stigmatization could potentially lead to more high-risk behaviour. The cycle continues. Moreover, locking people up for transmitting the disease could lead to the misconception that HIV/AIDS can simply be "locked away" and creating complacency about the disease is not an effective prevention strategy.

(v) *Rehabilitation*

It is difficult to see how incarcerating people living with HIV/AIDS will actually serve the purpose of rehabilitation. The cold reality is that people living with HIV/AIDS who serve time in prison are unlikely to re-offend when they get out of prison because they will be too sick to do so. As is often the case, prisons are not very well equipped to deal with people suffering from HIV/AIDS. A case in point is Peter Mwai who was convicted of grievous bodily harm in New Zealand for failing to disclose his HIV positive status and engaging in unprotected sex with four women. After four years in prison, Mr. Mwai was 'compassionately released' to a hospice. Soon afterwards he was deported to Kenya (and then Uganda) where he died of an AIDS-related illness shortly thereafter.

### **Community Rights versus Individual Rights**

The Constitutions of all Pacific Island nations enshrine the right to personal freedom and individual autonomy. This means personal autonomy, not only for persons living with HIV/AIDS but also for all persons living in the Pacific region. Respecting personal autonomy means that the responsibility to minimize high-risk sexual behaviour falls on all Pacific Islanders, not simply those who happen to have been diagnosed with HIV/AIDS. It hardly needs repeating that high-risk sexual behaviour requires more than one person's involvement. Creating an offence, which places all responsibility on the person who already knows they are living with the virus, means that the person also engaging in the high-risk behaviour need not take any precautions for themselves. This is not respectful of the principle of personal autonomy. It is also a deeply misconceived prevention strategy.

Placing the full weight of criminal responsibility on the person living with HIV/AIDS is also likely to have a polarizing effect on the community. People living with HIV/AIDS are on one side of the playing field and everyone else is on the other in the disease free zone. The community begins to view itself as an insular entity that must be protected from the threat of HIV/AIDS. Not only does this 'us/them' mentality increase the stigma and discrimination faced by PLWHA, it also violates the principle of equality enshrined in most Pacific Island Constitutions.

Further, Pacific cultures often place more weight on the idea of "community" or "kin" than they do on the idea of the "individual". If community responsibility is ostensibly valued above individual autonomy, creating an individualized offence for HIV transmission is a paradoxical tool for effective disease prevention. HIV/AIDS is community problem. We are all affected when a loved one contracts the disease. As individuals, we must take responsibility for our own actions but as communities we must also take responsibility for each other. This fundamental principle is enshrined in the Vanuatu Constitution, which states that every person has a fundamental duty to himself and his descendants and to others to protect the Republic of Vanuatu and to respect the rights and freedoms of others and to cooperate fully with others in the interests of interdependence and solidarity. AIDS is everyone's problem. Accordingly, while designing criminal sanctions for the purposes of community protection is a valid objective, it should not be at the expense of individual autonomy and community responsibility.

### **A Rights Based Approach**

The further criminalization of HIV/AIDS is also contrary to a rights-based approach to HIV/AIDS management and prevention. In *A Time to Act: The Pacific Response to HIV/AIDS*, it was stated that the overall objectives of legal measures with respect to HIV/AIDS should be: to help eliminate or reduce the transmission of the virus; and to minimise the personal suffering and social harm caused by the disease. Creating a specific HIV/AIDS transmission offence will have the opposite effect by painting people living with the virus as "criminals" or "deviants" from whom the

community must be protected. Instead of creating a more supportive environment for PLWHA, this will actually increase the stigma and discrimination faced by those who are infected and will drive those living with the virus further underground. They will be more likely to experience feelings of shame, despair and isolation and will be less likely to seek counselling and treatment. This, in turn, will make HIV prevention more difficult and may in fact lead to an increase in high-risk behaviour. In short, the further criminalization of HIV/AIDS may enable a climate in which HIV is more easily spread.

### **Practical Considerations**

There are also perhaps more immediate concerns relating to the creation of an HIV-specific offence. First and perhaps most pressing is the lack of available resources in the Pacific region. Even if jurisdictions are interested in law reform, it is debatable whether an HIV-specific offence is the wisest most efficient use of time and money. Law reform initiatives are very rare in the Pacific and there are many other areas of law that are more in need of conscientious reform efforts, especially when it comes to HIV/AIDS management and prevention. Further, even if law reform occurs and an HIV-related offence is created, how will the public be informed of what the changes actually mean? If the sanction is truly aimed at prevention, then surely it will only have value if persons living with HIV/AIDS actually understand what behaviour on their part has been criminalized. There are also enforcement problems. If and when persons living with HIV/AIDS in the Pacific actually do engage in high-risk activities (and proving this will be a problem in and of itself) will Pacific Island nations actually have the resources available to prosecute these individuals for their actions? Can prisons adequately cope with prisoners suffering from HIV/AIDS related illnesses?

There are also reporting problems. In a region where HIV-related stigma and discrimination runs rampant, who is actually going to risk what little privacy they may have by publicly admitting that they were infected and/or by pressing charges against the person who infected them? Given the low status of women, it seems highly unlikely that women are going to report their husbands or other sexual partners. And as the newspapers from Fiji would have us believe, a man in Kiribati chose to take his own life rather than admit to his family and friends that he had sex with a woman who was HIV positive. This tragic story is demonstrative of the feelings of shame and aversion that prevent people from talking openly about HIV/AIDS.

Another problem with criminal law reform initiatives is that the formal legal systems in the Pacific region lack authority. Almost every Pacific nation has a history of colonization. The formal legal system, including the criminal law, is viewed as being foreign and may even be considered irrelevant to many indigenous Pacific Islanders. If this is in fact the case, how does creating an HIV-related offence serve the twin purposes of making life better for people living with HIV/AIDS and effectively preventing HIV/AIDS transmission? Simply put, it does not. In fact, use of the criminal law *at all* is unlikely to have any impact upon the spread of the HIV/AIDS epidemic in the region. And, at the end of the day, this must be the ultimate goal of all government initiatives and all effective HIV/AIDS strategies.

Finally, perhaps the most pragmatic reason for not creating an HIV-specific offence is because it is simply not necessary. Most, if not all, criminal codes in the region have adequate tools for prosecuting people living with HIV/AIDS who truly engage in criminal conduct i.e. those living with the virus who purposefully look to harm others. While the various applicable provisions vary in terms of what types of conduct is penalized and the types of penalties imposed, and while there are numerous evidentiary and interpretative challenges presented by the existing provisions, these are not insurmountable challenges. In fact, a good defence lawyer will always create evidentiary and interpretation problems, even in the clearest of criminal provisions.

## Conclusions

Creating effective HIV/AIDS strategies in the Pacific is a long and difficult process. It makes sense that governments and law reform advocates are concerned with HIV transmission and community protection. However, reforming the criminal law to create an HIV-specific offence is neither a principled nor a pragmatic solution to a very complex problem. Prosecuting people living with HIV/AIDS, or thinking that prosecuting people living with HIV/AIDS can effectively stop HIV transmission, is a quick fix solution that ignores the greater socio-political problems that allow a disease like HIV/AIDS to flourish.

We know that HIV/AIDS is a health issue but it is also a development issue. Poverty, discrimination, inequality, lack of health care, lack of education and lack of economic opportunities are all key factors which can lead to the propagation of the virus. We know that HIV/AIDS strategies require the cooperation of all sectors of society to effectively solve these complex problems. While criminal law may have a small role to play in protecting the public from those individuals living with HIV/AIDS who are aware of their status, do not take responsibility for themselves and purposefully look to harm others, it should hardly be the place for Pacific countries to focus their energies and limited resources. Criminalization, ostracization and incarceration are not effective solutions to the growing HIV/AIDS problem in the region. If we've learned anything from the experience of other countries, we should know that successful HIV/AIDS management requires education and compassion. Before a widespread outbreak occurs, the Pacific has the opportunity to prove to the world that this approach can and will work.

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Some recent examples of prosecutions in other countries include *R v. Dica* [2004] All ER (D) 45 (May) (U.K.); *Houghton v. The Queen* [2004] WASCA 20 (Australia); *R. v. Williams*, [2003] 2 S.C.R. 134 (Canada); *NZ Police v. Dalley* CRI-2004-085-009168 4 Oct 2005 (NZ).

Fiji: Health Authorities Investigate Deliberate Spread Of HIV, November 2005 (Source: Pacific Magazine) <http://www.pacificislands.cc/pina/pinadefault2.php?urlpinaid=18562> (accessed 31 Jan. 06) Former HIV-AIDS Advocate now in Bad Books 7 Dec 2005 18:11:27 (Source: Fiji TV Website) <http://lyris.spc.int/read/messages?id=45703> (accessed 31 Jan. 06)

For the purposes of this paper, the issue of intent has been simplified. In law, depending upon the offence, the actual "state of mind" required varies. Some offences require specific intent whereas for others 'recklessness' or 'wilful blindness' may suffice. To act "negligently" is different altogether. In other countries, when prosecuting general intent offences, it has often been sufficient for an accused to engage in a high risk activity (like having unprotected sexual intercourse) knowing that there is a risk of HIV transmission. When, for example, the media or the Ministry of Health in Fiji discuss "wilful" transmission, it is therefore very difficult to ascertain what type of conduct or state of mind in particular they are referring to.

See for example, *Cook Islands Crimes Act*, 1969, s. 209(1); *Fiji Penal Code* 1944 [Cap 17] ss. 224 and 227, *Kiribati Penal Code* [Cap 67] ss. 218 and 220, *Samoa Crime Ordinance*, 1961 s. 79, *Solomon Islands Penal Code* [Cap 26] ss. 224 and 226.

See for example Samoa *ibid* at s. 581, Cook Islands *ibid* at s. 158.

See for example Kiribati *supra* note 4 at s. 165(1), Vanuatu *Penal Code* [Cap 135] at s. 114, Fiji *supra* note 4 at s. 187.

See for example Fiji, *supra* note 4 at s. 245, Solomon Islands *supra* note 4 at s. 245, Tuvalu *Penal Code* [Cap 8] at s. 238, Kiribati *supra* note 4 at s. 238, Vanuatu *supra* note 6 at s. 107 and Samoa *supra* note 4 at s. 78.

See for example Cook Islands *supra* note 4 at s. 141, Fiji *supra* note 4 at s. 149, Samoa *supra* note 4 at s. 47, Vanuatu, *supra* note 6 at s. 90 and Kiribati *supra* note 4 at s. 128.

See for example Vanuatu, *supra* note 6 at s. 108, Fiji *supra* note 4 at s. 239, Kiribati *supra* note 4 at s. 281, Samoa *supra* note 4 s 81.

See for example, Elliot, R. *Criminal Law and HIV/AIDS: Final Report* (Montreal: Canadian Legal HIV/AIDS Legal Network and Canadian AIDS Society, 1996) for a detailed review of the evidentiary concerns raised by existing Criminal Code provisions in Canada (many of which are similar to existing criminal code provisions in the Pacific).

Fiji, *supra* note 4 at s. 193.

See for example, Kiribati, *supra* note 4 at s. 176; Cook Islands, *supra* note 4 at s. 223; Tuvalu, *supra* note 7 at s. 176; Solomon Islands *supra* note 4 at s 185.

*The Sexual Offences Report 1999: Reform of Chapter XVII of the Penal Code (Fiji Law Reform Commission: September 1999).*

For a detailed criticism of Fiji's recommendations including a review of the evidentiary concerns raised by the suggested provision, see Jowitt A. and T. Newton Cain, "Law Reform in Fiji Islands: A Commentary on the Proposed Reforms Relating to Rape and to HIV/AIDS", University of the South Pacific pp 12-23.

This section is largely based from a similar discussion in R. Elliott *supra* note 10.

*Supra* note 10 at pp 36-44. See also Elliott, R. *Criminal Law, Public Health and HIV Transmission: A Policy Options Paper* (Geneva: UNAIDS, 2002) at pp 20-21.

*Supra* note 14 at p. 15

*Supra* note 14 at 21.

*Supra*, note 14 at p. 16. This "hysteria" is also evidenced by the Dec. 2005 newspaper articles on wilful transmission in Fiji, *supra* note 3.

Gostin L., *The Politics of AIDS*, Ohio State Law Journal 1989: 49:1056-57 in *supra* note 10 at p. 42.

See *R v. Mwai* [1995] 3 N.Z.L.R. 149. See also Independent Radio News New Zealand 15 Sept 1998, (Source: New Zealand Gay & Lesbian News) [www.glinn.com/news/intl5.html](http://www.glinn.com/news/intl5.html) (accessed 31 Jan. 06).

See for example, *Fiji Constitution (Amendment) Act 1997*, Section 23; *Constitution of Kiribati* [Cap 1], Section 5(1); *Constitution of the Cook Islands*, Section 64(1)(a); *Constitution of the Independent State of Western Samoa 1960*, Section 6; *Constitution of the Republic of Vanuatu*, Section 5(1)(b); or *Constitution of the Solomon Islands*, Section 5(1)(h); *Constitution of Nauru*, Section 5(1)(f); *Constitution of Tuvalu*, Section 17, *Constitution of the Independent State of Papua New Guinea*, Section 42(1)(f).

See for example, *Fiji Constitution (Amendment) Act 1997*, Section 38; *Constitution of Kiribati* [Cap 1], Section 15; *Constitution of the Cook Islands*, Section 64(b); *Constitution of the Independent State of Western Samoa 1960*, Section 15; *Constitution of the Republic of Vanuatu*, Sections 5(1)(d) & (k); or *Constitution of the Solomon Islands*, Section 15; *Constitution of Tuvalu*, Section 27; *Constitution of Tonga*, Section 4; *Constitution of the Independent State of Papua New Guinea*, Section 55; *Constitution of the Federated States of Micronesia*, Section 4; *Constitution of the Marshall Islands*, Section 12.

*Constitution of Vanuatu*, *ibid* at Section 7.

*A Time to Act: The Pacific Response to HIV/AIDS* (UNDP, 1996) at 74.

Amending public health legislation, providing access to treatment, developing anti-discrimination legislation or developing law with respect to compulsory HIV testing are just a few examples of much needed law reform with respect to HIV/AIDS. For an example of recent HIV/AIDS-related law reform, including law reform with respect to willful HIV transmission and criminal law, see PNG's *HIV/AIDS Management and Protection Act, 2003*.

*Supra* note 3.

Jowitt, A. *Effective Responses to Regional Issues – A Pacific Perspective*, Discussion Paper, GAJE Conference, 9-11 December 2002, Sydney, at p. 6.

*Ibid*.

The larger paper, of which this paper is an excerpt, explores in greater detail the usefulness and/or suitability of existing criminal code provisions in the Pacific.

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