



Promoting equity and managing conflict in development

## Policy Note

March 2015

# Toward More Effective and Legitimate Institutions to Handle Problems of Justice in Solomon Islands

Douglas Porter, Deborah Isser, and Philippa Venning

© 2015 International Bank for Reconstruction and Development / The World Bank  
1818 H Street NW  
Washington DC 20433  
Telephone: 202-473-1000  
Internet: [www.worldbank.org](http://www.worldbank.org)

#### **Disclaimer**

This work is a product of the staff of The World Bank with external contributions. The findings, interpretations, and conclusions expressed in this work do not necessarily reflect the views of The World Bank, its Board of Executive Directors, or the governments they represent.

The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of The World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

#### **Rights and Permissions**

The material in this work is subject to copyright. Because The World Bank encourages dissemination of its knowledge, this work may be reproduced, in whole or in part, for noncommercial purposes as long as full attribution to this work is given.

Any queries on rights and licenses, including subsidiary rights, should be addressed to the Office of the Publisher, The World Bank, 1818 H Street NW, Washington, DC 20433, USA; fax: 202-522-2422; e-mail: [pubrights@worldbank.org](mailto:pubrights@worldbank.org).

#### **Contact Details**

Justice for the Poor  
Governance and Inclusive Institutions  
Governance Global Practice  
World Bank  
1818 H Street, NW  
Washington, DC 20433 USA  
Email: [j4p@worldbank.org](mailto:j4p@worldbank.org)

**Policy Note**

March 2015

# **Toward More Effective and Legitimate Institutions to Handle Problems of Justice in Solomon Islands**

Douglas Porter, Deborah Isser, and Philippa Venning

**The World Bank**



# Introduction

This policy note summarizes key lessons and conclusions from the World Bank's engagement in Solomon Islands under the Justice for the Poor program, which has been active in that country since 2009.<sup>1</sup> It interprets what has been learned in connection with a question posed at the start of this program: "What can be done to support more effective and legitimate institutions to handle problems of justice in Solomon Islands?"<sup>2</sup>

To answer this question, the note is organized around a set of three questions.

First, what are Solomon Islanders' main justice concerns?

Second, how are these concerns being handled today, to what extent are people satisfied, and why?

Third, what can Solomon Islanders and their development partners do to improve justice outcomes?

There have recently been critiques of efforts by donor partners to promote justice reform in Solomon Islands, in particular the limitations of capacity-building and technical approaches that focus on restoring central justice sector agencies.<sup>3</sup> This note is an effort to shift the standard discourse on building justice institutions to a problem-driven approach that seeks to grapple with the contextual peculiarities of Solomon Islands. The approach, which this note aims to illustrate, begins with an assessment of how problems are experienced by citizens and then examines how these issues are being handled by public authorities, whether secular, religious, chiefly, or *kastom* in nature. It then considers the conditions under which these authorities might work differently and also the likelihood that powerful players and citizens will invest in the forms of institutions needed to incrementally, but appreciably, deliver better results.

Four key features of the Solomon Islands context underpin this analysis:

- **Geography and Demographics.** Solomon Islands enjoys extraordinary social and linguistic diversity, which, coupled with its scattered geography, low-density settlement patterns, and rapidly growing population, imposes especially high costs on linking people and places, making it difficult to collectively negotiate, and then sustainably deliver on, agreements between citizens and government.<sup>4</sup>
- **Economic Reliance on Natural Resource Exploitation.** The political and economic predominance of the logging industry has profoundly shaped the relationship between citizens and government performance.

---

1 This note draws on a series of studies and reports listed in Annex I and a selection of others referred to in the text. It does not try to summarize all that has been learned or concluded from this experience, but rather to bring the various strands together to suggest a fresh way to think about policy making and donor interventions in the domain of justice. The note has been prepared by Douglas Porter, Deborah Isser, and Philippa Venning, with input by Leisande Otto.

2 It is important to highlight that this note focuses on the experience of Solomon Islanders in rural areas, which is where the overwhelming majority reside and where the footprint of logging deals and future mining operations is most pronounced. Justice stresses in urban Honiara may present a different set of issues, warranting a separate study.

3 M. Cox, E. Duituturaga, and E. Scheye, *Building on Local Strengths: Evaluation of Australian Law and Justice Assistance* (Canberra: Australian Agency for International Development, Office of Development Effectiveness, 2012).

4 World Bank, "Solomon Islands Growth Prospects: Constraints and Policy Priorities" (Washington, DC: World Bank, 2010), available at <http://siteresources.worldbank.org/INTPACIFICISLANDS/Resources/SourcesofGrowthSummary.pdf>.

For more than 30 years, this industry has adversely impacted on the willingness of political and business leaders to invest resources in creating representative, inclusive, fair, and accountable national or local public authorities.<sup>5</sup> The current government predicts a steady decline in log exports and revenue and looks toward the uncertain prospect of a transition to a mining economy. The lesson from logging and mining elsewhere in Melanesia is that this transition will deepen existing stresses and increase the need to build public institutions that are effective and legitimately grounded in dynamic customary values and institutions.<sup>6</sup>

- **A Distinctive Clientelistic System of Governance and Accountability.** Solomon Islands’ nominally Westminster system of governance implies a particular way of thinking about accountability and relationships between citizens, political leaders, and the deliverers of services. However, in Solomon Islands this is belied by a more deeply embedded political logic based on short-term individual relations and deals. The evident mismatch between public expectations and a public sector incapable of delivering results has reinforced the incentive for politicians to take an increasingly greater role in public spending and service delivery. In turn, this has supported a transactional and clientelistic relationship between politicians and individual constituents—votes for personal benefits—which further undermines the quality of services delivered by the public sector.<sup>7</sup>
- **Dependence on External Aid.** Since the Regional Assistance Mission to Solomon Islands (RAMSI) intervention that commenced in 2004, dependence on external aid has increased, and many state agencies rely on both formal and tacit agreements, typically with the Australian government, to “co-produce” their core functions and deliver services. Important changes are occurring in the political economy that suggest that Solomon Islands remains prone to conflict and that an external security guarantee will need to be maintained for the foreseeable future.<sup>8</sup> Thus, unavoidably, donors will continue to have an important role in the co-production of Solomon Islands’ sovereignty. But this fact has created an awkward relationship between the country and its development partners. It is not simply that these arrangements have enabled some sectors to perform well (such as health and education), but that in other cases (including justice and economic governance), the political incentives to reform have been weakened.<sup>9</sup>

The main findings of this note are: First, Solomon Islanders primarily seek justice in relation to three sets of grievances: (1) disputes arising from land and natural resource transactions; (2) social order problems; and (3) inequities in development spending. Second, current institutional arrangements—both government and informal—to manage these issues are inadequate, inaccessible, overwhelmed, and/or compromised. While this is certainly due to fiscal and capacity constraints, more importantly, it reflects the shifting political order, characterized by increasing centralization and clientelism and the political and economic predominance of the logging industry. The note concludes with recommendations on how to manage each of the three sets of

---

5 J. A. Bennett, *Pacific Forest: A History of Resource Control and Conflict in Solomon Islands, c. 1900-1997* (Cambridge and Leiden: The White Horse Press and Brill Academic Publishers, 2006); and T. Kabutaulaka, “Global Capital and Local Ownership in Solomon Islands’ Forestry Industry,” in *Globalisation and Governance in the Pacific Islands*, ed. S. Firth (Canberra: ANU E-Press, 2006).

6 P. Tagini, “What Should Sustainable Mining Look Like in Solomon Islands?” Looking Beyond RAMSI: Proceedings of the Regional Assistance Mission to Solomon Islands, 10th Anniversary Seminar, ed. C. Moore (Honiara: Regional Assistance Mission to Solomon Islands [RAMSI], 2013).

7 T. Wood, “The Causes and Consequences of Local Voting in Solomon Islands,” *State, Society and Governance in Melanesia*, In Brief Series 2013/17 (Canberra: Australian National University, 2013); and D. Craig and D. Porter, “Post-Conflict Pacts and Inclusive Political Settlements: Institutional Perspectives from Solomon Islands,” *Effective States and Inclusive Development Research Centre Working Paper 2014/39* (Manchester: University of Manchester, 2014).

8 World Bank, “Solomon Islands Growth Prospects.”

9 J. Barbara, “From Intervention to Partnership – Prospects for Development Partnership in Solomon Islands after the RAMSI,” *Asia and the Pacific Policy Studies* 1, no. 2 (2014).

justice problems in ways that: (1) foster institutions that create linkages between citizens and the state around particular problems; (2) build on local innovations in which citizens and elites are evidently prepared to invest; (3) promote learning by doing, allowing for variation in accordance with Solomon Islands' diverse landscape.

This approach pushes the boundaries of what is often considered “justice reform” into other areas of development that have a significant impact on how justice is delivered and experienced. It also anticipates that the modest prospects of success will be improved if it is accepted that arrangements to handle these problems may take on different forms in different parts of the country.<sup>10</sup> These prospects of positive change will not be achieved through a “top-down” technical fix nor through an exclusive focus on “rebuilding the state” from below. Rather, effective institutions are more likely to result from focusing on widely acknowledged problems in which there is evidence that people are already investing energy, loyalties, and other resources for what they regard as legitimate and effective ways to handle them.

---

<sup>10</sup> N. H. Barma, E. Huybens, and L. Viñuela, eds., *Institutions Taking Root: Building State Capacity in Challenging Contexts* (Washington, DC: World Bank, 2014).





# 1. What are rural Solomon Islanders' main justice concerns?

Surveys and conversations with rural Solomon Islanders highlight three sets of inter-related justice concerns that severely impact on development and social harmony.

## ***1. Grievances around land and natural resource transactions, in particular involving the exploitation of natural forests and prospective mining operations.***

As in other predominantly agrarian societies, the majority of disputes in Solomon Islands relate to land. While this has always been the case, the intensity of these disputes and their propensity to become violent are greatly heightened in cases of commercial investment, such as logging or mining. In fact, the presence of logging operations is the most significant predictor of community disharmony and conflict.<sup>11</sup> Grievance is, not surprisingly, rooted in how the benefits and costs of these investments are distributed. Benefits are seen to be squandered—loggers reap windfall profits while enjoying major tax breaks and other concessions—and inequitably distributed both between Honiara and the provinces and within and between social groups. Costs are borne by local communities, both directly, in terms of environmental and social damage, and indirectly, as the extractive economy has shaped public authority in ways that undermine investment in service delivery. The anticipated upsurge in mining will intensify contests over how benefits and costs are distributed, which could threaten the viability of this source of future economic growth. Disputes and perceptions of injustice follow these patterns:

- Community expectations at the time the logging deal is negotiated often bear little or no relation to what happens subsequently. To a large extent this relates to how the deal is done, as there is often minimal community understanding of the consequences; formidable pressure to sign by intermediaries, including educated community members and chiefs; empty promises by investors; and ineffectual government officials who are either absent or actively colluding with investors.
- In few cases are the terms of logging agreements formally monitored, but even where they are, it is difficult to ensure that agreements are enforced or properly reviewed and amended. This has on occasion driven communities to take direct action in the form of vandalism, road blocks, and occupation of the site.
- The prospect of windfall benefits kicks up intra- and inter-communal contests regarding the composition of the landowning community and creates schisms between individual and communal interests. Such disputes tend to be intractable and contribute substantially to the general erosion of local governance and dispute-resolution capabilities.

---

11 M. Allen and others, "Justice Delivered Locally: Systems, Challenges, and Innovations in Solomon Islands" (Washington, DC: World Bank, 2013), xi.

### BOX 1. Conflicts around Logging in Birao Ward, Guadalcanal

In 2002, a group representing four tribes decided they wanted to grant timber rights to a logging company to log a large area of forestland in Birao, Guadalcanal. They registered a business name to apply for consent to grant the timber rights. However, the land was communally owned by more tribes than the four represented, and the other tribes openly opposed the prospective logging. There were confrontations within communities and between tribes. The Marao Leaders Council wrote a letter to the Commissioner of Forests opposing the granting of timber rights, but the Commissioner issued his approval of a Timber Rights Hearing.

The hearing was held in 2004. Travel and allowances were covered by the prospective logging company. Against the required process, objections were not permitted to be raised at the hearing; rather, a direction was made that any objections should be raised after the determination. Given the lack of objections at the hearing, a determination was made to grant the timber rights. A contract with the logging company was signed and the company commenced operations.

One month after the hearing, the aggrieved parties filed an appeal with the Customary Land Appeals Court and also filed a High Court case claiming irregularities in the timber rights process. The company's directors subverted these cases by excising the disputed area from the concession.

Although logging did not occur in the disputed area, it took place nearby, and conflict between and within the tribes continued. This conflict intensified into violence and destruction of property on a number of occasions, but there was no intervention by any authorities. The logging company continued to demand compensation for damage to its property but managed to export only one shipment of logs.

**Source:** M. Wairiu and G. Nanau, "Logging and Conflict in Birao Ward of Guadalcanal, Solomon Islands," IKI Working Paper 1 (Honiara: Islands Knowledge Institute, 2011).

## 2. *Social order problems around efforts to manage gender and family conflict, youth behavior, and alcohol and substance abuse.*

Social order problems are everywhere, the consequence of globalization and the rapid transformation of agrarian societies. In Solomon Islands, the pace of social disintegration has been amplified by disputes around accessing and spending natural resource royalties, rents, or access fees.<sup>12</sup> These deepen existing social cleavages and feed directly into social order problems already arising due to the corrosion of long-standing norms about marriage, the roles of and obligations between men and women, and relations between youth and elders. Chiefs and local leaders are compromised by their involvement with drugs, alcohol, family violence, and land and natural resource transactions. An inability to control or tolerate social order problems is perceived to be linked to feelings that time-honored *kastom* institutions once responsible for social order deserve less trust and respect. Similarly, rural Solomon Islanders feel that the retreat of local-level courts, policing, administration, and representative councils that occurred in the first two decades after independence in 1978 has severely hampered their ability to deal with social crises.

---

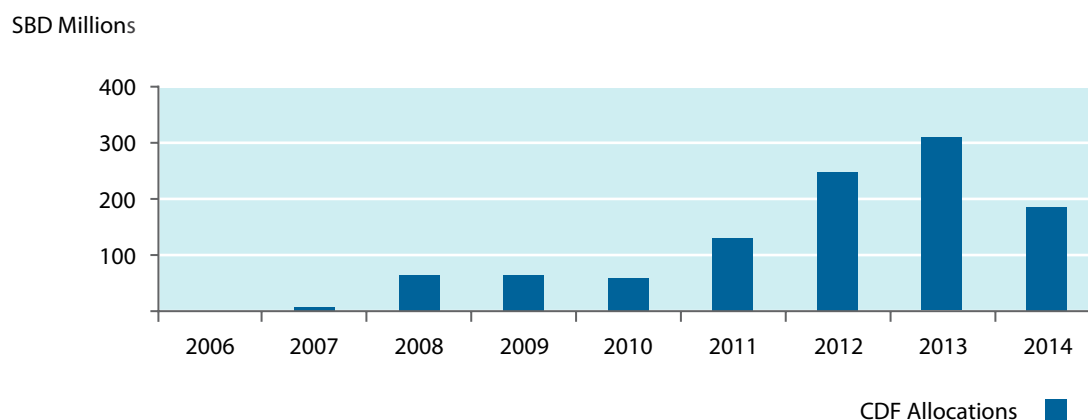
<sup>12</sup> Ibid., 15. See also C. Filer, "The Bougainville Rebellion, The Mining Industry and the Process of Social Disintegration in Papua New Guinea," *Canberra Anthropology* 13, no. 1 (1990): 1–39.

### 3. Disputes arising from competition to access the benefits of development spending.

People are aggrieved by the fact that access to services, employment opportunities, or cash benefits through spending, whether by politicians, national or provincial administrations, or donor projects, is highly uneven across the country, within communities, and between men and women. Conflicts around public expenditure, as with those involving land and natural resource deals, arise because villagers must compete for the favors of multiple external actors (such as investors, donor project representatives, and political leaders) to access opportunities to make decisions and gain benefits, jobs, and livelihoods. This can accentuate existing social cleavages and also create new alignments and factions that disrupt established ways of governing.

Such disputes are especially marked in Solomon Islands because of the many ad hoc mechanisms through which public resources are spent. The often inconsistent “rules of the game” that apply to donor projects—sponsored by official agencies and run through or around government departments or by civil society organizations—generate confusion about who is responsible for what and also multiple opportunities to delay, distract, and ultimately dissipate their impacts. The upsurge in the volume of spending through Constituency Development Funds (CDFs) allocated to all members of parliament (MPs) has increased the perception that spending is political, arbitrary, and unfair.

Figure 1. Rapid Rise in Constituency Development Funds



Source: Government of Solomon Islands budget estimates.

The combined effects of unrealized expectations and the fragmentation of government and donor spending instruments have greatly intensified ongoing disputation. This severely hampers the effectiveness of development spending and heightens conflict.<sup>13</sup>

13 See World Bank, “Solomon Islands Growth Prospects.”

## 2. How are these problems being dealt with in Solomon Islands?

*These problems have been mistakenly perceived and treated—by Solomon Islanders and their development partners alike—as local justice problems to be managed by local justice systems.* The impacts of these unmet justice needs are felt most acutely at the local level, but it is a mistake to see these grievances simply as local disputes or as features of a malaise that is peculiar to Solomon Islands. All three categories of justice problems featured as drivers of the tension period, the effects of which continue to be felt nationwide. In other words, these problems are manifestations of the challenges of state building and development, globalization, and rapid agrarian change.

*Solomon Islanders generally recognize three sources of authority on justice matters:* the state justice system (primarily the police and the lower tiers of the judicial hierarchy); *kastom* (usually in the form of local chiefs); and church authorities. In practice, these different sources of authority are closely interwoven (see box 2). There is great variation across Solomon Islands, but the ability of these authorities, individually and collectively, to deliver justice across the three areas of concern outlined above is severely constrained and is also perceived as having significantly eroded over the past three decades.

### BOX 2. *Kastom*, Secular, and Religious Authority is Typically Intertwined

When divisions arose in a community after elections in Guadalcanal province, a *chupu* ceremony was held to reconcile the contenders and restore social relationships. The language of *kastom* and Christianity were entwined in the speeches. One of the chiefs urged the parties to “forget about the past and build on the future based on Christian beliefs and values.” The *chupu* exchange included talina (shell money), live pigs, and food. A local priest prayed, and supporters of the current and previous MPs shook hands.

**Source:** M. Allen and others, “Justice Delivered Locally: Systems, Challenges, and Innovations in Solomon Islands” (Washington, DC: World Bank, 2013), 22.

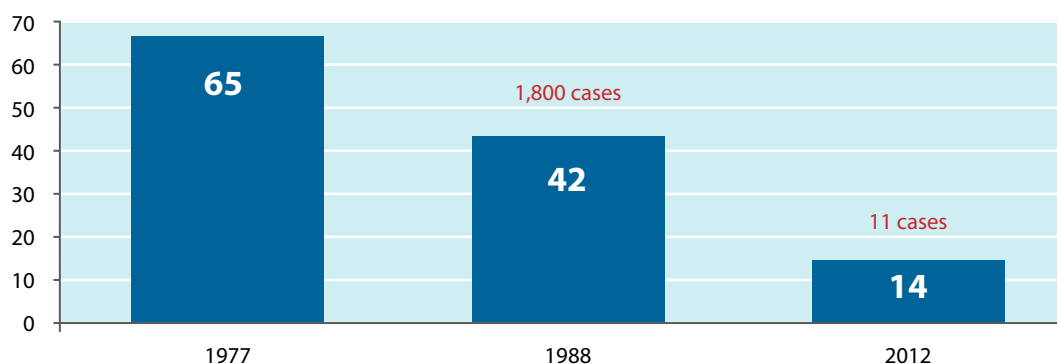


*Chupu* Ceremony at Kakabona, Guadalcanal province, 2010.

*The effectiveness and legitimacy of government authority in village life vary, but by and large, people feel that they are disconnected from the state.* For many people, especially those whose memories reach back before independence, the suspension of the lowest level of government, the area councils, in 1989 meant not just the end to locally accessible political representation, but also the withdrawal of the last piece of a local and recognizably “government” system of administration. Political and administrative centralization since then has reduced the presence of formal government agencies, including the police and the courts, and thus increased the costs and difficulties people face in accessing them. In the early 1980s, some 65 local courts—that is, easily accessible, lay, community-based courts—heard well over 1,000 cases annually. Today, 14 centrally administered local courts sit primarily in provincial capitals. Three resident magistrates’ courts sit outside of Honiara, primarily to hear criminal cases, but a quarter of their caseload requires a principal magistrate, who often needs to travel from Honiara on a court circuit (which is cancelled more often than held).

Figure 2. Native/Local Courts

Number of Courts



Source: L. Hammergren, D. Isser and others, “Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands” (Washington, DC: World Bank, 2015).

*At the same time, dramatic shifts are occurring in the way rural people are connected to government.* On the one hand, provincial governments continue to be hampered by chronic fiscal and administrative weaknesses; provinces seldom fully tap available sources of revenue, and the way they spend revenue and the results achieved, with few exceptions, are generally poor. On the other hand, decentralization in the guise of rapidly increasing CDFs has favored the national political executive and greatly increased the political contests to control the 47 rural parliamentary constituencies. But so far, the growing share of services and spending delivered through aid projects and CDFs has not contributed to the greater political accountability of elected leaders for core government functions, such as health, education, policing, or judicial services, nor has it revealed the possibility that new kinds of accountability will emerge that are more favorable to getting the results that people prefer.

*Local-level kastom and church authorities are overwhelmed by these justice problems, which have origins and consequences far beyond their local jurisdiction.* It is not surprising that when disputes are generated by the actions of people beyond the community—by national or provincial political leaders, administrative

officials, or investors—local authorities find it difficult to mobilize the political influence, respect, and resources needed to decide what should happen or to enforce decisions fairly and equitably. Furthermore, where the pace of change has been accelerated by logging agreements or major public investments in infrastructure, local competition to secure the benefits and exclude others often means that chiefs become entangled in parochial struggles, which serves to undermine and corrode people’s respect for local governance authorities (see box 3).

### BOX 3. Chief or Thief? Conflict of Interest

In many communities subject to extensive logging and other extractive industries such as fishing and mining, chiefly authority and legitimacy have been significantly undermined. It is not uncommon for logging companies to recruit men—including chiefs but also educated elites—as their “agents” or “middlemen,” paying them in the form of allowances, accommodation, or other items, such as outboard boat engines. This practice results in the discrediting of chiefs in the eyes of their communities. In response to questions posed about the role of chiefs in logging, a common refrain was “chief or thief?”

*Source:* Allen and others, “Justice Delivered Locally,” 22.

*More specifically, with respect to the three justice problems:*

**1. *There is very limited recourse for land and natural resource-related disputes.***

Disputes involving land or identity, and especially disputes that involve both, are central to how people order their everyday lives. Local authorities handle these disputes, but this does not necessarily mean that the disagreement ends and the parties agree to put the matter behind them. Nor does it mean that conflict, including violent conflict, will not be part of the process of creating agreements, questioning them, or making sure they are enforced. In cases involving commercial investment, primarily logging, the ability of local authorities to manage disputes is undercut by their actual (or perceived) collusion with the loggers. In any event, *kastom* authorities are simply not equipped to manage cases involving logging companies or the performance of government officials.

As for the state justice system, jurisdiction over these cases sits with the highly dysfunctional local courts, which have exclusive original jurisdiction over all customary land cases, and the customary land appeals courts (CLACs), which hear appeals from local courts and administrative Timber Tights Hearings. As noted above, local courts today are anything but local. Moreover, their performance is abysmal; although caseloads are manageable, delays and cancellations are the norm—a paltry four local court trials were completed between 2011 and 2012 across the country (box 4).

But the justice system is not entirely absent on these issues. When Solomon Islanders take direct action against loggers—for example, vandalism, road blockades—the police sometimes do appear, but in defense of the logging company.

#### BOX 4. Local Courts: Nostalgia for the Past and Current Realities

The sense of loss and nostalgia for what is remembered as a far more accessible, responsive, and context-relevant local justice system is a common theme in the Justice Delivered Locally work program. The system in Solomon Islands inherited at independence that remained through the late 1980s included easily accessible local courts that adjudicated a wide range of disputes in ways that corresponded with community concerns and norms. Decisions, of course, would tend to be aligned with how power, privilege, and exclusion were locally ordered, but by and large, local courts provided quick and ongoing venues to contest issues peaceably and reach working resolutions of local justice problems.

Today these courts are neither local nor acting as courts—that is, they are not bringing disputes to resolution. Can these courts be restored to what they once were? Highly unlikely. First, although there is much room for improved expenditure efficiency, the fiscal constraints that prompted state “retreat” from rural areas through centralization are no less severe. More importantly, though, the broader political and administrative apparatus in which local courts used to function no longer exists. The extent to which these courts were seen as both legitimate and effective had much to do with the fact that they were part of a system of legislative and executive power—local assemblies called area councils and district/area executive government and policing, backed by credible coercive powers of the central state. Moreover, while their primary function in earlier times was to deal with a range of social order problems, the land issues for which they now have exclusive jurisdiction are mainly related to the impacts of commercial investment, which is beyond their ability to manage.

The most important constraint on restoring formal local justice institutions is the absence of elite interest in doing so. For the most part, political and business leaders can settle their disputes through other means and venues. It is not surprising that they neither press directly nor mobilize their political clients or people with whom they do business for improvements to institutions that would scrutinize their performance. The current proposal for new forums to take over the customary land jurisdiction of the local courts, the Tribal Land Dispute Resolution Panels proposal, has been on the agenda with no movement for years, indicating that it faces the same problems.

## 2. *Social order disputes are by and large handled by local arrangements or not handled at all.*

There is no question that local arrangements at the community level mediate the vast bulk of local social order disputes involving property and personal security, inheritance, youth, drugs and alcohol, and the obligations and performance of leaders. This does not always work, however, as the legitimacy of chiefly authority is routinely challenged, especially when chiefs also partake in alcohol and *kwaso* and are seen as colluding with loggers.

Alcohol is also a key factor in the frequency and severity of endemic family violence, but leaders echo social norms that accept this kind of violence and judge it to be a “private matter.”<sup>14</sup> Most victims do not tell anyone about the violence they have suffered; women may tell local or religious leaders but rarely report to the police. Actions by women leaders have been important, especially through the churches and in peace negotiations during the tension, but women are generally marginalized and absent from dispute resolution by *kastom*, church, and state authorities.<sup>15</sup>

---

<sup>14</sup> Ministry of Women, Youth and Children’s Affairs, *Solomon Islands Family Health and Safety Study: a Study on Violence against Women and Children* (Noumea, New Caledonia: Secretariat of the Pacific Community, 2009).

<sup>15</sup> Allen and others, “Justice Delivered Locally,” 41, 42, 57, 63.

## BOX 5. The Tragedy of Family Violence

Solomon Islands has one of the highest rates of family violence in the world. Sixty-four percent of ever-partnered women aged between 15 and 49 years have experienced physical or sexual abuse from an intimate partner. Thirty-seven percent of women aged 15–49 report sexual abuse before the age of 15. Eighty-two percent of women report that they have never gone to any agency or authority for help. In some places, *kastom* prevents a woman from speaking with men about violence. The endemic level of violence means that many chiefs and other local leaders are themselves violent, reducing the likelihood that a woman would report violence or that action would be taken.

**Source:** Ministry of Women, Youth and Children's Affairs, *Solomon Islands Family Health and Safety Study: a Study on Violence against Women and Children* (Noumea, New Caledonia: Secretariat of the Pacific Community, 2009).

"The men here go drinking, often for days at a time. They come back without warning and expect to see food prepared for them. They often come back angry and beat the wives and chase them from the house. When this happens the wife often fears that the husband will beat her. They can do nothing. They just run away bleeding and screaming...We are church people and good Christians, so we can't speak out and complain against our husbands. If our husbands beat us we know we need to become better wives, so we come back, pray with our husbands for forgiveness and it is finished." Woman in Manakwai Village, Malaita Province.

**Source:** S. Dinnen and N. Haley, "Evaluation of the Community Officers Project in Solomon Islands," *Justice for the Poor Research Report* (Washington, DC: World Bank, 2012), 18.

Serious cases such as rape and violent assault require state action, but the state is not responsive even here. Police are now largely concentrated in provincial centers, lacking resources (such as fuel for outboard motors) to take action on crime. The Royal Solomon Islands Police Force (RSIPF) may attribute this to a decline in its share of the government's recurrent budget in recent years, but much fault lies in the past decade of intensive international assistance. The focus on the rebuilding of central institutional capacity, coupled with the failure to engage with community-based providers of policing and justice services in rural localities, has resulted in the neglect of critical issues of legitimacy and the problem of how to extend the reach of police administration. This has inadvertently reinforced the lack of public confidence in the local police.<sup>16</sup>

Serious crimes are meant to be brought to magistrates' courts for committal proceedings to the High Court. Yet, despite evidence of indictable serious offenses in all districts, no cases have been committed to the High Court outside of Gizo and Honiara since 2009, likely due to the fact that those are the only locations that have permanent public solicitors.

### ***3. Disputes over public spending are chronically difficult to handle because of the variety of fragmented mechanisms.***

As often remarked, relationships between voters and elected representatives and the public service bureaucracy are grossly at odds with the prescriptions of "good governance." Yet the nature of the relationships between voters and politicians in Solomon Islands—sometimes described as "clientelism"—is reinforced by the proliferation of systems used to channel public revenue. At the immediate interface between government and citizens, politicians now exert more control over more spending decisions than does the public service sector. Donor funds for capital/infrastructure or service delivery are also often channeled through CDFs or are handled through arrangements determined by donors, outside the mainstream of the public sector.<sup>17</sup>

16 S. Dinnen and M. Allen, "Paradoxes of Postcolonial Police-Building: Solomon Islands," *Policing and Society: An International Journal of Research and Policy* 23, no. 2 (2013).

17 Current data are not available, but in 2008, only US\$16 million, or around 7 percent, of a total US\$229 million in official development assistance (ODA) was formally appropriated through Solomon Islands' budget. Across the Solomon Islands government, donor systems account for more than 125 vertical projects, which are executed through project management units in 26 ministries. See World Bank, "Solomon Islands Growth Prospects," 66.



Each of these layers handles grievances in different ways, variously providing more or less discretion and empowering or constraining administrative officials, project staff, MPs, members of provincial assemblies (MPAs), and local committees to make decisions that may play out in vastly different ways across the country. From a local perspective, the many nuanced differences in formal rules are seldom apparent. Viewed locally, at best, disputes about public spending are handled in incoherent and inconsistent ways; at worst, they present multiple opportunities to compete and exclude, game the system and fuel networks of patronage, and successfully blur accountability for decisions made, in case the remote possibility arises that they might later be scrutinized.

***Solomon Islanders are well aware of these problems and want to see more effective and integrated justice capabilities.*** When consulted, Solomon Islanders not surprisingly reiterate that they want “broken” institutions, whether chiefly, religious, or secular, to be “fixed,” and for them to work together in a coordinated and harmonious way.<sup>18</sup> Solomon Islanders, however, have long doubted that the Westminster system of adversarial politics is suited to their needs and have a long tradition of experimenting with different arrangements to counter these concerns by bringing these sources of authority together.<sup>19</sup> Since independence, some provinces have repeatedly pressed for a federal-style devolution of powers, and various drafts of a revised constitution grapple with the promise to engage chiefs and other community leaders in governance. Across provinces, there exist a wide range of initiatives, many backed by local ordinances, that aim to integrate the values of *kastom*, religion, and a modern state into how people are represented, services delivered, disputes resolved, and law and order maintained.<sup>20</sup> But none of these proposals have gained traction in national political debates or been reflected in decisions made in parliamentary forums.

***For the most part, Solomon Islanders “muddle through” despite the unsatisfactory resolution of their grievances and even of serious crime. However, they remain acutely aware of the potential for these grievances to trigger violence.***

#### BOX 6. Outstanding Issues, Unsettled Business

“Acting Prime Minister Hou said that as focus shifted to RAMSI’s transition and new partnerships for development with Australia, it was important to remember the outstanding issues that resulted in the request for regional intervention in the first place, and that RAMSI’s transition be task-bound and not time-bound. The Acting Prime Minister stressed the importance of addressing the causes of the ethnic tensions and taking appropriate action to resolve those outstanding issues, noting that there were pending security and ethnic tension related issues that would be better addressed by the Solomon Islands government with the support of development partners.”

**Source:** Pacific Islands Forum Secretariat, PIFS(13)FMSC.7, 7th Forum Ministerial Standing Committee Meeting on the Regional Assistance Mission To Solomon Islands (RAMSI), May 22, 2013, Honiara, Outcomes Statement.

18 Allen and others, “Justice Delivered Locally,” 69.

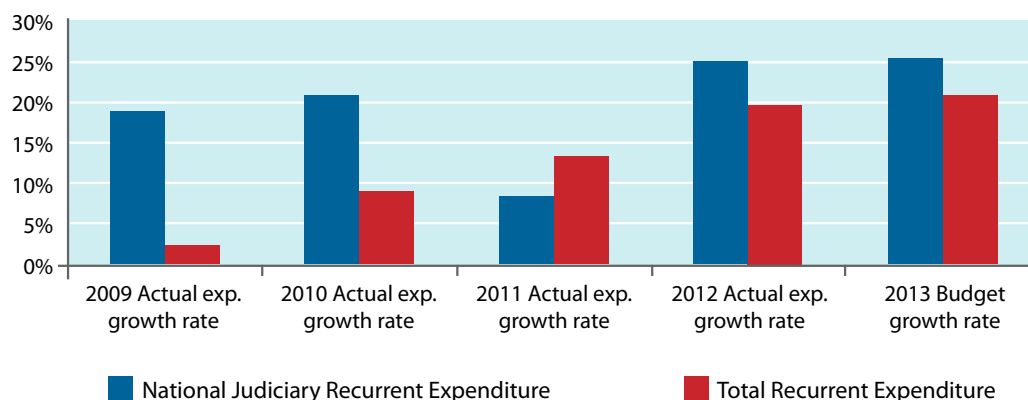
19 See, for example, T. Kabutaulaka, “Westminster Meets Solomons in the Honiara riots,” in *Politics and State Building in Solomon Islands*, ed. S. Dinneen and S. Firth (Canberra: ANU e-Press, 2008), 96–118. Most well-known are the Ma’asina Rule Movement in Malaita, the Moro Movement on Guadalcanal, and the Christian Fellowship Church in New Georgia. Each was inspired by *kastom* but borrowed ideas from colonial governance.

20 Including, for example, the mix of *kastom*, church, and state featured in Isabel’s “tripod system,” Choiseul’s Luru Land Conference of Tribal Communities, new ordinances providing for peace councils and workers (e.g., Makira), community workers (e.g., Western), and vestiges of colonial police and area constables (e.g., Renbel). See Allen and others, “Justice Delivered Locally,” 72–75.

### 3. What could Solomon Islanders and their development partners do to improve justice outcomes?

*Efforts by government and donor partners to inject funds and technical assistance into state justice institutions will have limited impact under current conditions.* Although the national judiciary could certainly do more to ensure local-level courts get a more adequate share of the amounts allocated to the judiciary, the problem is not about a lack of money. With the exception of 2011, recurrent spending on the national judiciary has grown significantly each year, generally in excess of any increases granted to other government ministries (figure 3). In addition, the national judiciary has received abundant aid in the past decade, amounting to between 75 percent of actual expenditure in 2008 to 54 percent in 2012.<sup>21</sup>

Figure 3. National Judiciary Recurrent Expenditure Compared with Total Recurrent Expenditure 2009–13



**Source:** L. Hammergren, D. Isser and others, “Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands” (Washington, DC: World Bank, 2015).

**Note:** Based on 2013 budget figures.

There has been no shortage of sound advice about what needs to be done. The litany of deficits and dysfunctions with local-level courts is well-known, and over the past decade, remedies have been laid out in many reports and actions have steadfastly been agreed to. Remedies have included efforts to improve information and case management, budget planning, local-level court sittings and court circuits scheduling, productivity targets, and financial and human resource management.

21 Estimates cited in L. Hammergren, D. Isser and others, “Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands” (Washington, DC: World Bank, 2015). For a more comprehensive study, see J. Gouy and M. Harding, “‘True Cost’ of Policing in the Solomon Islands: Identifying Policing and Security Expenditures and Costs Borne by External Agencies”. Unpublished consultants’ report, 2011.

***Solomon Islands is not exceptional.*** Evidence from across the world shows that countries with low incomes and recent experiences of conflict that also rely on the sale of one or two primary commodities on distant and volatile markets have enormous difficulty establishing effective and legitimate public institutions.<sup>22</sup> Further, in these contexts, it is not uncommon for the prevailing formal structures and systems of government to be only partially in place, and thus for their reach to be highly uneven and contested by customary or religious ways of ordering life. Nor is it uncommon for efforts to bring government closer to the people to be caught, just as they are in Solomon Islands, between the already high costs of government and the strong likelihood that government revenue will flatten off.<sup>23</sup>

***These realities require an approach that breaks with the past.*** There are no easy solutions. Moreover, it is important to recognize that many of the stresses and constraints noted above are either binding or largely immune to changes in public policy and that none of them will be shifted in the short term. The poor track record of efforts to reform public institutions in similar contexts has been well documented.<sup>24</sup> A decade of reform efforts in Solomon Islands, not just in the justice sector but in the wider “machinery of government,” warns that a sole focus on overarching reforms at the higher, central levels of public institutions is unlikely to impact on how they function or deliver results.<sup>25</sup> Yet it is also unwise to assume that the problems or bottlenecks are downstream or local and can be corrected by better information or as a result of “demands” exerted by communities from below.<sup>26</sup>

***Experience in Solomon Islands and elsewhere suggests that successful efforts to improve justice outcomes need to be grounded in four principles:***

1. Be oriented to the problems and issues prioritized by villagers rather than to reforming institutions or simply building their organizational capacity.<sup>27</sup>
2. Identify and work with local initiatives in which powerful actors and the wider population are already investing energy, resources, and loyalties, setting aside preconceived notions about the particular forms of institutions that will provide effective ways of dealing with justice issues.

---

22 See P. Collier, *The Bottom Billion* (Oxford: Oxford University Press, 2008) for an analysis of these factors.

23 Asian Development Bank (ADB), “Asian Development Outlook: Solomon Islands” (Manila: ADB, 2014); and International Monetary Fund (IMF), “IMF Solomon Islands Country Report,” No. 14/170 (Washington, DC: IMF, 2014), 3.

24 M. Andrews, *The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions* (Cambridge: Cambridge University Press, 2013); and M. Roll, ed., *The Politics of Public Sector Performance: Pockets of Effectiveness in Developing Countries* (Abingdon, UK: Routledge, 2013), 194–241.

25 There is room for healthy debate about what it would take to shift from clientelistic to programmatic forms of politics disciplined by robust political parties, and about the extent to which these performance issues or technical challenges are unique to the courts or the broader justice system and/or are typical across almost all Solomon Islands’ government departments and agencies. These are matters beyond the remit of this note. But the widespread skepticism about the impacts of efforts to reform government machinery, the apparent lack of enduring impacts on service delivery, and the signs of fatigue and disillusionment are directly relevant to considering “what could be done” to improve justice outcomes. A range of views is reflected in the following: D. Hausman, “Starting from Scratch in Recruitment and Training: Solomon Islands 2004-2009,” in *Innovations for Successful Societies* (Princeton, NJ: Princeton University Press, 2010); J. Hayward-Jones, “Australia’s Costly Investment in Solomon Islands: The Lessons of RAMSI” (Sydney: Lowy Institute, 2014); ADB, “Asian Development Outlook”; IMF, “IMF Solomon Islands Country Report”; and K. Clements and others, “State Building Reconsidered: The Role of Hybridity in the Formation of Political Order,” *Political Science* 59, no. 1 (2007): 51–52.

26 J. Fox, “Social Accountability: What Does the Evidence Really Say?” Global Partnership for Social Accountability Working Paper Series, Working Paper 1 (Washington, DC: World Bank, 2014); and R. Abjihit and others, “The Pitfalls of Participatory Programs: Evidence from a Randomized Evaluation in Education in India,” *American Economic Journal: Economic Policy* 2, no. 1 (2010).

27 This principle is not new. In 2012, the Solomon Islands case study of the Australian government’s evaluation of Australian law and justice assistance recommended “That a significantly increased percentage of Australia’s support to law and justice in Solomon Islands and its contribution to RAMSI be used towards models of development other than the organisational capacity-building approach—namely service delivery, problem-solving and thematic alternatives.” See Cox, Duituturaga, and Scheye, *Building on Local Strengths*, 77.

3. Expect that local initiatives will be contested and that this is an indispensable part of learning, adapting, and embedding new institutions and ways of operating. For donors and government, this means that the direction of change cannot be programmed in advance, and that setbacks and unintended consequences must be accepted as normal practice.
4. Promote learning by doing to allow for variation across the diverse country. Recognize that additional measures will be needed to support local efforts, and for over a longer time period, than people are normally prepared to commit to.

*In practice, what could this mean for the three sets of justice problems described above?*

***1. Innovations to create linkages to govern local social order disputes appear to be promising.***

The “Community Officer” pilot introduced by the RSIPF in 2009 represented an institutional reform that mobilized the capabilities of informal leaders with traditional legitimacy and backed this by what were perceived to be credible linkages with formal authorities of the state. In 20 ward-level communities, the pilot introduced community officers (COs) who were mostly men with authority in their community, including chiefs, retired police officers, and church leaders, all working voluntarily and without any special legal powers. In broad terms, it was the first attempt since the suspension of area councils to strengthen local capabilities and provide formal linkages between government and rural communities. While RSIPF officials saw COs more narrowly as their “extension officers,” an evaluation two years after the pilot was launched concluded that it had done little to make policing more responsive or prominent in community life. But the evaluation also found that the initiative was “overwhelmingly welcomed in communities.” Why the apparent discrepancy?

Instances were found where the CO appeared to make some existing dispute-resolution mechanisms work better and had helped to make practical links with schools and health clinics (e.g., reporting of abuse/domestic violence). However, the popularity of this pilot was also boosted because local people felt that the overall initiative acknowledged the legitimacy of local authority and stimulated and supported, rather than displaced or ignored, local arrangements. Depending on the locale, examples of these local arrangements may include the “local committees” found in every community, the more formal tripartite chiefly, religious, and provincial authority recognized in Isabel’s “tripod system,” Makira’s ambitious peace and governance ordinances, and liaison roles in the form of village officers and area constables. The second ingredient was that for many villagers, the pilot signaled the return of government. “The CO,” respondents said, “makes us feel like the government is now with us.” The evaluators concluded that the CO represented the “shadow of the law,” and thus both deterred and encouraged certain kinds of behavior.<sup>28</sup>

That any local intervention—such as the CO—must work with pre-existing patterns of power and legitimacy also means that it is unreasonable to expect that interventions will automatically be positive for subordinate groups, notably women and youth. But interestingly, a few wards outside of the official pilot appointed their own COs, including women. Anecdotally, it was found that female COs were able to intervene in women’s justice concerns, including domestic violence, mostly by acting as intermediaries with male authorities.<sup>29</sup>

---

28 S. Dinnen and N. Haley, “Evaluation of the Community Officer Project in Solomon Islands,” Justice for the Poor Research Report (Washington, DC: World Bank, 2012).

29 W. Chadwick and A. Tuhanuku, “Women at the Interface of Local and State Justice Systems: A Case Study of Community Officers in Solomon Islands,” unpublished paper (Honiara: World Bank, 2013).

### BOX 7. Community Governance and Grievance Management Project

Building on the CO pilot and with Australian funding, the World Bank is supporting the Ministry of Provincial Government and Institutional Strengthening's Community Governance and Grievance Management (CGGM) project. This project will help to institutionalize COs as a way to strengthen local governance and improve linkages with higher levels of government. The COs will be employed by the provincial government but selected by and from the communities they serve. The role of each CO will be tailored to the needs of his or her community, but regular links with provincial government officials will aim to ensure that there are checks and balances between community and government expectations in ways that local innovation is encouraged and local capabilities improved. The project will start in two provinces and include another two provinces in the third year of implementation.

***Delivery of justice for victims of serious crimes and egregious cases of social disorder would yield significant dividends, but this will require resolving bottlenecks and sustained political demand.*** Such cases are clearly beyond the jurisdiction of local authorities and local and magistrates' courts, but the credibility of the local entities may actually depend upon better performance by higher-level authorities in dealing with the significant issues. Close scrutiny of where bottlenecks lie in getting the High Court committal system right for serious crime could pay dividends, most importantly for the victims' unmet justice needs, but also could add credibility to efforts to strengthen local-national linkages and serve the long-term purpose of constructive national debate on how to regulate sexual and other forms of violence (see box 8). Unfortunately, for a host of reasons, improving the reach of and linkages between these formal agencies—police, prosecution, high courts—has so far proven elusive and does not appear likely.<sup>30</sup> The crucial ingredient that would justify such technical analysis and the testing of corrective measures on a limited geographic basis is thus missing, namely, sustained political demand.

### BOX 8. Criminal Justice in the Courts

While in theory, local courts have jurisdiction over minor crime, they almost exclusively hear customary land cases. The vast majority (80 percent) of a magistrate's court caseload is criminal. Yet although the caseload is deemed by comparative standards to be manageable within current resources, the courts are characterized by backlogs, delays, and cancellations. Reasons for this include the effects of centralization and the consequent contraction of services, as well as inefficient case listing practices. Perhaps most significantly, 25 percent of criminal cases filed in magistrates' courts outside of Honiara fall outside the jurisdiction of the Resident Magistrate, requiring a Principal Magistrate visiting on circuit. Although circuits are infrequent to begin with, they nevertheless have a cancellation rate of 50 percent. The result is that only cases in which defendants plead guilty are disposed of. Police comment that it is not worth their trouble to file new charges, act on warrants, or issue summons in light of delays and frequent circuit cancellations. Solomon Islanders may well avoid using the courts after seeing adjournments and cancellations, especially when it involves travel expense to get to the court in the first place.

Serious criminal cases, such as homicide and rape, are beyond the jurisdiction of even Principal Magistrates. These cases are first submitted to magistrates' courts for committal proceedings to the High Court. Yet, in the years 2008–12, committals have come only from Gizo and Honiara, despite serious indictable cases, including sexual violence cases, pending in other jurisdictions.

**Source:** L. Hammergren, D. Isser and others, "Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands" (Washington, DC: World Bank, 2015).

30 L. Hammergren, D. Isser and others, "Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands" (Washington, DC: World Bank, 2015).

***The menu of technical measures that would improve the efficiency of the magistrates' courts is within the capability of the national judiciary to carry forward.*** This menu includes:

- Case management systems for better flows of information and oversight
- Budgeting, programming, and planning capacities of the national judiciary, including reducing the percentage of circuit and court sittings that are cancelled
- Productivity and performance management of judicial personnel; the setting and enforcing of targets for case dispositions
- Rationalized case listing procedures to reduce any tendency toward arbitrariness or favoritism in the selection of cases to be heard
- Human resource management involving the physical placement of court personnel as well as their existing terms and conditions, including considering a rise in the jurisdictional levels of Resident Magistrates
- Financial management, including analyzing bottlenecks in financial flows and determining if there is scope for the possible devolution of budget control to provincially based magistrates' courts

The national judiciary deserves credit for moving on some of these topics,<sup>31</sup> but for the most part, including simple measures to improve planning and case listing procedures, there has been little movement. There are even fewer credible signs that efforts have been made to upgrade coordination with other institutions, including most prominently the police, which has remained a very weak link despite significant assistance from RAMSI.

***There is no apparent case for further donor support to improve the functioning of the lower courts.*** In principle, donor support could focus on technical measures that deliver tangible results to end users, avoiding wholesale top-end reforms, and work in ways that encourage rather than blunt incentives for public servants to commit to sustaining improvements over time. But the prerequisite for results is not improving aid management but engendering a shift in public and political demand. In the absence of this, there are few incentives for public servants to follow through on a technical efficiency agenda; there is also no guarantee that improved efficiency will lead to delivering improved quality or to meeting significant unmet justice demands.

***2. The prospect of mining will increase pressure on communities, government, and investors to manage disputes related to land and natural resources, which will create opportunities to shape new arrangements to produce more equitable procedures and outcomes.***

The bulk of disputes relating to land (e.g., in relation to boundary, inheritance, mutation of rights) will continue to be handled by local mechanisms. However, as the logging experience shows, disputing parties will also pursue every forum available to contest their claims where potentially large windfalls—or foregone opportunities—are at stake. In other words, an upsurge in mining will trigger an increase in social contests that will likely outstrip the capacity of both local and national authorities. These pressures arise because of the nature of the mining industry, involving the scale and duration of mining operations. These pressures also arise because of the direct and multiple obligations of the state, as the owner of mineral resources, the regulating authority, and the

---

<sup>31</sup> These include establishing a separate imprest account for local courts and customary land appeals courts, creating a secretariat to administer these courts, and promoting efforts to improve the terms of engagement of magistrates and to recruit additional magistrates.

distributor of benefits and costs through the expenditure of public revenues. From time to time, as recently observed in Isabel, this may reinforce the standing and capability of existing authorities, but across the board, the stresses created by competition for recognition, inclusion, and access to benefits will cause the fragmentation as well as amalgamation of interests on a local, ethnic, island, and regional basis. Thus there will be strong incentives to create new venues and arrangements to contest claims and disputes. Indeed, intense interest and speculation as well as a good deal of jockeying are already apparent around these issues. Equally important, there is substantial regional experience among landowners, companies, and governments, from national to local, that may assist Solomon Islanders in determining how to shape effective and legitimate mechanisms.

***With respect to mining, there are three key sites where contests are most likely to occur and therefore where attention is most warranted.***

First is the making of the deal, that is, *the process of exchanging land access for benefits, which entails landholder identification, representation, and negotiation*. Here, regional experience shows that there is need for flexibility in the legal instruments and institutional arrangements made to enable local people to voice and contest their claims and establish forms of representation they regard as fair.

Second, innovative arrangements will be needed to handle *contestation around the monitoring of mining operations to enable people to gain redress where agreements are broken or need to be renegotiated*. Contrary to the desires of mining investors, from a local viewpoint, all agreements will be revisited as new claimants gain a stake in proceedings and, over time, as new generations press to revalidate or prompt new agreements.<sup>32</sup>

The third site is the *process of benefit sharing*, through which benefits flowing directly to landowners and communities affected by mining operations are allocated and managed.

For all sites it will be important to redress the wide differences in the quality of information and advice available to competing parties, not just between investors, government, and community, but within local social groups also. Information and special purpose advisory services can improve the degree to which landowners and affected communities—including women and vulnerable people—are informed about the consequences of decisions. This is a prerequisite for “free and informed consent.” But because information can also be a political asset, it should not be expected that information and advice will quell claims that decisions made are unjust or exclusionary and therefore automatically reduce the incidence of disputes or the potential for conflict.

***3. There is urgent need to promote informed debate about how to equalize spending, compensate localities from where national revenue is derived, and reward and sanction the performance of different levels of government in converting revenue into public services.***

With the advent of significant mining operations, a surge in revenue flowing into the national budget process should be anticipated. This will add unprecedented pressure to deal with one of the most neglected aspects of Solomon Islands nation building since independence: namely, the geographic and social distribution of public revenues. The record is unimpressive. Stark inequalities in access to services, jobs, and livelihoods, which many believe drove the 1998–2003 tension, have become more marked in the past decade.<sup>33</sup>

---

32 A. Regan, “Causes and Course of the Bougainville Conflict,” *The Journal of Pacific History* 33, no. 3 (1998): 269–85.

33 World Bank, “Solomon Islands Growth Prospects.”

A significant source of perceived injustice and local conflict will be alleviated if the rules on how public revenues are spent are made more consistent. In addition, donors must act with government to reduce the multiple layers of donor and political spending systems in favor of arrangements that reinforce rather than undermine the role of mainstream government systems. Greater clarity and simplicity in the rules of spending and clearer lines of accountability to government officials and departments may also result in fewer grievances about waste and duplication, corruption, and leadership. If so, this would improve the public legitimacy of state agencies, the absence of which has been a source of social discontent, and would enable local authorities—with or without COs—to play a positive role in resolving disputes, or at least be more accountable when they themselves compete for access and favor.

A transition to a mining economy will compel greater attention to how public spending is equalized across the country, how the regional source of wealth is recognized, and how the varying performance of different levels of government is rewarded and sanctioned. There have been no signs to date that the political leadership is ready to correct the most glaring inequalities in per capita public spending and its lack of alignment with the relative needs or economic potential of different parts of the country. But if Solomon Islands follows patterns observed in other countries experiencing the large-scale exploitation of oil, gas, or mineral wealth, the principles and practice of “sharing prosperity” between different levels of government and across more or less endowed regions of the nation will be hotly contested. In anticipation of this, attention should be given now by government, civil society, and donor partners to ways to handle these contests and reduce the potential for violent conflict.

### ***Conclusion***

Solomon Islanders’ main justice concerns revolve around three issues: social order; natural resources, particularly land, forestry, and mining; and public spending. They believe that these issues impede prospects for growth and shared prosperity and continue to pose serious risks of conflict. Rural Solomon Islanders do not believe these issues are being dealt with satisfactorily by local authorities—chiefly, religious, or secular—and want their capabilities rebuilt and their linkages restored with formal state agencies so that they function in ways nostalgically remembered as “how things were before independence.”<sup>34</sup>

The problem is that each of these justice issues is fueled by changes that have occurred in Solomon Islands’ relationship with the global economy since independence and by dynamic, rapidly changing relationships between the country’s political leaders, public sector, and citizens. Justice problems are inherently bound up with these changes and need to be understood in these terms. Thus, they cannot be treated as isolated problems of the justice sector or as if past arrangements can be cut and pasted into present day conditions. Similarly, the nation’s island geography and social diversity must be taken into account, as must its youthful but scattered, low-density population and its economic reliance on a few volatile commodities and aid flows.

Conventional responses reliant on the import of best practices from elsewhere have not worked. This is so whether they are oriented to the long route of restoring the functioning of central formal institutions and thus improving service delivery, or focused on immediate service results through the promotion of community-based solutions or local demand for change. Successful engagements need to be grounded in four principles. As distilled from experience in Solomon Islands and beyond, these are, first, that efforts to support positive change must be oriented toward problems and issues prioritized by citizens. Second, these efforts should focus on initiatives that have the attention and engagement of powerful actors and citizens. Third, it is in the nature of these justice issues that initiatives to handle them in new ways will be contested and that engagement with them

---

<sup>34</sup> M. Allen and others, “Justice Delivered Locally: Systems, Challenges and Innovations in Solomon Islands” (Washington, DC: World Bank, 2013).



will have unintended consequences. This leads to the fourth point: given Solomon Islands' diverse institutional and social landscape, the adoption of a learning approach will result in variations across the country in the forms of institutions that will be needed to respond to the three key sets of justice problems outlined here.

Taking these points into account, with respect to each of the three sets of justice problems—social order, land and natural resources, and public spending—the following priorities stand out.

**1. *Social Order: Focus on social order issues that may plausibly be dealt with locally, but also deal with the conundrum of serious crime.***

Ironically, just as the formal apparatus of local governance—local assemblies and area councils, local courts, police, and administration—has withdrawn from rural life, the rise of logging and now the prospect of mining, as well as the rapid increase in political spending through CDFs, have combined to increase political competition to control the territories of local authorities. This renewed interest is positive. It can be chaotic and ruthless, and it will produce some negative results, but it is a prerequisite for reforms in local governance.

*Suggested Action:*

- Utilize the national forums provided by the Community Governance and Grievance Management project as a platform to discuss the merits of different approaches to local dispute resolution and justice delivery in Solomon Islands. While the project has the merit of being a nationally endorsed and potentially nationwide way of “learning by doing,” there exist a range of local arrangements (as in Choiseul, Makira, Renbel, Western) that mix and exploit the capabilities of *kastom*, religious, and secular institutions. Systematic review and debate about the results achieved by these different arrangements would fill an important gap in efforts to improve justice service delivery.

Greater engagement by the High Court is indispensable to meeting unmet justice needs with respect to serious crime. Action by the High Court is important not simply to ensure justice is delivered where it is evidently denied, but also to bolster the credibility of local authorities and local and magistrates' courts by backing them when matters fall outside their jurisdiction. In the past decade, not a single serious crime case has gone forward except in the magistrates' courts in Gizo and Honiara.

*Suggested Actions:*

- Support intervention by the national judiciary to work out effective committal procedures for serious crime to be referred to the High Court. This action could pay significant dividends, not simply in delivering justice presently denied, but also in increasing the public profile of the judiciary's performance and the challenges it faces, and in prompting serious debate about sexual and gender-based violence in Solomon Islands.

**2. *Land and Natural Resources: With the reasonable prospect of a transition to mining, lessons must be learned from key issues glossed over during the heyday of logging in Solomon Islands.***

While it is important to manage disputes about rights and entitlements across all aspects of mining, two issues stand out as key drivers of grievance and conflict: first, the process through which landholders and affected communities are represented in mining negotiations and second, arrangements to respond to ongoing demands to review and revisit the terms of agreements. Both of these issues deserve special attention at this point. It is important that Solomon Islands avoids the allure of a single form of legal

instrument for landowner representation and similarly avoids reliance on classic administrative processes—for example, the mines department—to monitor compliance with the terms of an agreement. Much can be learned from logging and mining in Melanesia at large, including from such instruments as Incorporated Land Groups, Community Development Agreements, and Development Forums. Each of these forms of institution responds to particular issues relating to representation, benefit sharing, the monitoring of operations, and the reconsideration of agreements, though each must, however, be adapted and refashioned to suit the contours of local needs and struggles.

*Suggested Actions:*

- Acknowledge and value the widespread concern among Solomon Islanders about how mining proposals are being handled and consult the numerous reputable and locally informed sources of advice.
- Before reaching elsewhere for advice, conduct a rapid survey of existing activities that aim to increase the chances that decisions made by landowners and affected communities are made freely and with adequate information to determine: i) the range of activities purporting to aid landowners in their interactions with the wider community of claimants, investors, and government, ii) the priorities of affected citizens and what they think about support currently available or required, and iii) the lessons learned so far about what works best and is more relevant, timely, and useful in supporting these negotiations.
- Draw on this information to promote networking, both within Solomon Islands and abroad, as well as the sharing or pooling of regional expertise and the creation of special facilities or clearinghouse secretariats to fund advisory activities and exchanges, and guide donors about what they could helpfully bring to the party, including current global comparative information and active connections with competent officials, specialists, and activists elsewhere.

**3. *Development Spending: Promote informed public debate about the results of different ways of spending public revenue.***

Long-standing grievances about the perceived favoritism and neglect, inequities and corruption resulting from the fragmented public sector, donor, and political spending arrangements are almost certain to increase. Yet informed debate is disabled by the lack of basic empirically valid information about the pros and cons of these systems, how they work, and what they might be attuned to do. This is much needed not simply because it has been a driver of violent conflict in the recent past and because it is important that spending take into account the costs of service delivery and the widely differing endowments and needs across the country. In addition, such debate is necessary because it is central to unmet public demand for new, more appropriate arrangements for political representation and public administration than the ill-fitting structures bequeathed to them at independence. Thus, expanding this field of informed public debate may help Solomon Islanders grapple with a core driver of conflict and instability. In this light, while there are many reasons to support concern about the politicization of public spending and the expected challenges should mining bear fruit, these trends may combine to bring to center stage the serious political commitment needed to reform the structure of government and how responsibilities and resources are assigned in order to respond to the set of three justice issues discussed in this note.

*Suggested Actions:*

- Assemble and analyze basic information on patterns of spending (by sector, recurrent and development) on a geographic basis across the country, including spending by i) line ministries and provincial and

national authorities of revenue raised locally, ii) MPs and MPAs of constituency grants, and iii) donor agencies, both through the government budget and vertical projects.<sup>35</sup>

- Stimulate informed discussion about the fact that economic growth, especially growth generated from mining, currently is not and likely will not be distributed evenly across the country. Efforts to equitably distribute economic growth, such as by state sponsorship of particular projects or sectors in lagging areas, are not likely to succeed. Rather, talent and resources can be better used to maximize the connections between locations favored by economic activity (sites of investment and urban centers) and by ensuring that the benefits of growth are more evenly felt throughout the country in access to public services and facilities.<sup>36</sup>
- Augment and inform public debates about the best way to spread or concentrate spending through practical illustrations that might then be applied on a trial or wider basis. Outside Solomon Islands, there exists a wide range of experience with formulas for distributing revenue that factor in the relative cost of delivering services in different parts of the country, reward good performance by particular provinces or sectors, or take into account the relative potentials and efforts made (e.g., to raise local revenue) and population needs. By using the data assembled through the steps proposed above and applying different spending formulas, it should be possible to support informed dialogue through radio and print media or special purpose discussions through parliament, government, and donor forums.

---

35 At present, the chart of accounts and financial management information systems (FMIS) are not able to capture line ministry spending patterns by geographical location, and serious work would be required to establish the systems needed to begin collection of this data nationwide. However, constituency grant and donor project spending are comparatively easy to disaggregate by geographic area, whether by constituencies, wards, or provinces. Alongside this, field visits could produce a detailed analysis of expenditure units—health, education, infrastructure, for instance—to prepare a representative number of case studies of all public spending occurring in particular geographic areas. These case studies could be complemented by the results of the “poverty mapping” currently under way on the basis of the Household Expenditure and Income Survey to reveal the degree to which spending is aligned with relative needs across the country.

36 This viewpoint is explained further in World Bank, “Solomon Islands Growth Prospects.”

## Annex 1.

### Publications by Justice for the Poor, Solomon Islands

Justice for the Poor is a World Bank research and development program aimed at informing, designing, and supporting pro-poor approaches to justice reform. It is an approach to judicial sector reform that sees justice from the perspective of the poor and marginalized, is grounded in social and cultural contexts, recognizes the importance of demand in building equitable justice systems, and understands justice as a cross-sectoral issue.

Justice for the Poor research reports are aimed at development practitioners, partner governments, researchers, and others interested in justice reform. Research reports are reviewed by at least two external referees who are independent of the program. Research has been funded by the Australian Department of Foreign Affairs and Trade.

#### **Evaluation of the Community Officer Project in Solomon Islands (Sinclair Dinnen and Nicole Haley), Research Report, May 2012**

This evaluation assesses the performance of the Community Officer project, a trial community policing mechanism initiated by the Royal Solomon Islands Police Force in late 2009.

[http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/05/11/000386194\\_20120511024415/Rendered/PDF/687150WP0tf0970jectEvaluation0Final.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/05/11/000386194_20120511024415/Rendered/PDF/687150WP0tf0970jectEvaluation0Final.pdf)

#### **The Hybrid Courts of Melanesia: A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands (Daniel Evans and Michael Goddard with Don Paterson), Working Paper 13, 2011**

This comparative analysis of hybrid courts in Melanesia, focusing on the village courts of Papua New Guinea, the island courts of Vanuatu, and the local courts of Solomon Islands, examines the strengths and weaknesses of these state-sanctioned courts that take heed of customary forms of dispute resolution. Observations are provided about their potential for development as instruments of community-owned justice in Melanesia. A community justice workshop was held in Honiara in late 2011 involving practitioners working with or in hybrid courts from around the globe.

<http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/HybridCourts.pdf>

#### **Institutional and Fiscal Analysis of Local-Level Courts in Solomon Islands (Linn Hammergren and Deborah Isser, with Daniel Evans, Doug Porter, and Philippa Venning), Research Report, February 2015**

This research report provides an analysis of the use and performance of local-level state courts: local courts, customary land appeals courts, and magistrates' courts. Based on available court statistics, case file analysis, and interviews, the report examines the constraints—structural, organizational, financial, and political—to their efficient and effective provision of services and how these constraints might be overcome to enhance their performance. Particular attention is paid to unmet justice needs that are the most problematic, that is, those disputes that either individually or collectively challenge community stability or development.

**Justice Delivered Locally: Systems, Challenges, and Innovations in Solomon Islands (Matthew Allen, Sinclair Dinnen, Daniel Evans, and Rebecca Monson), Research Report, August 2013**

This report documents the results of extensive qualitative research conducted in five of the country's nine provinces, exploring the contemporary justice needs and experiences of rural Solomon Islanders. The research attempts to understand the nature of disputation and sources of grievance affecting rural communities and the various state and non-state mechanisms that are used to obtain redress or manage conflict.

<http://documents.worldbank.org/curated/en/2013/09/18310356/justice-delivered-locally-systems-challenges-innovations-solomon-islands>







**THE WORLD BANK**

IBRD • IDA

1818 H St. NW

Washington, DC 20433, USA