

Discussion Note

Justice for the Poor Mission to Solomon Islands, December 2008

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1. SUMMARY

The East Asia Pacific – Justice for the Poor (EAP-J4P) Initiative is a regional partnership between the World Bank and AusAID. It supports intensive analytical and programmatic work in countries where legal pluralism¹ presents a central governance challenge and addresses how such systems can be engaged to support more equitable development outcomes.

From 1 through 12 December 2008, a mission comprising Caroline Sage (TTL), Nicholas Menzies, Ali Tuhanuku and Daniel Adler visited Solomon Islands. The mission was undertaken as part of the EAP – J4P Initiative with the following objectives:

- (i) Prepare an initial situational analysis of the law and justice sector to inform the drafting of the Bank's Internal Strategy Note for the Solomon Islands.
- (ii) Meet with the Government, members of the World Bank Country Team, RAMSI, AusAID and other donors, civil society organizations and other relevant stakeholders to update J4P's understanding of possible areas of engagement and identify the scope of an initial piece of AAA.
- (iii) Draft terms of reference for J4P to undertake the AAA (including developing a plan for ongoing J4P engagement) and assist the Country Team in strategy development regarding the intersection of the Bank's portfolio with issues of accountability, dispute resolution and conflict management.
- (iv) Discuss and determine the logistics of commencing a J4P program in-country.

In pursuit of these objectives the mission met with representatives of relevant government agencies, donors, NGOs, landholders and private sector actors. It also had the opportunity to observe hearings at the Central Magistrate's Court.

Three additional pieces of context were crucial in framing the work of the mission: (i) the widespread consensus that international assistance to the Solomon Islands needs to do more to address the underlying institutional dilemmas that have troubled the country since independence and (ii) the emphasis of the Sikua government on promoting improved living standards through private sector driven development; and (iii) the emergence of a focus in the World Bank's work in Solomon Islands on stability and growth. With this in mind the mission has attempted to frame a J4P country program which could contribute – within its areas of expertise - to an environment in which members of customary groups are able to participate in, contribute to and benefit from economic growth both more effectively and more equitably than has previously been the case. The stability theme would be addressed indirectly by addressing issues of conflict management and access to justice at the local level.

The mission emerged with a number of options for engagement. These included:

- i. Analytical work on the recognition of customary groups. A comparative study documenting different experiences of customary groups in the formal economy is suggested. This would contribute to the sources of growth analysis from a legal and economic empowerment perspective. It could also support government and donor programming in the productive sectors.

¹ Legal pluralism is understood as the coexistence and interaction of multiple legal orders within a social setting or domain of social life; a situation that exists in every country but may be particularly acute in countries that have formal or state legal systems with limited reach or local legitimacy.

- ii. Support for Reforms being lead by the Minister for Justice and Legal Affairs – this could include AAA or possible operational work on the establishment of new procedures for the resolution of land disputes in hybrid (customary/judicial) tribunals and revitalization of the local courts.
- iii. Technical assistance to support customary groups engaging in the formal economy. To the extent that customary groups get assistance in preparing to engage in the formal economy this often comes from companies or government departments that have potential conflicts of interest. Avenues for the provision of upstream advice (before conflict emerges) include in consort with the Rural Development Project’s *Capacity Building for Rural Business Development* sub-component or in collaboration with the IFC.

In addition to this Discussion Note, which presents the mission’s key findings, the following annexes are attached: (A) Notes on the Formal Justice Sector; (B) Tabular Comparison of the Forestry and Mining Acts (regarding the recognition of customary groups); (C) Notes on Cases Encountered During the Mission; (D) List of Contacts.

2. BACKGROUND TO A COMPLEX LEGAL ENVIRONMENT

i. The Challenges of Governance in the Context of Legal Pluralism

Like many other Pacific Island states, Solomon Islands faces the challenge of governing and resolving conflict in the face of plural legal orders. Legal pluralism in Solomon Islands does not simply encompass the contrast between state law and customary law (*kastom*), but includes (1) the interaction between diverse indigenous regimes; (2) the fact that state law itself is the product of outside influence, both historical and ongoing; and (3) the direct impact on local law of forces emanating from outside the state, ranging from human rights norms to contractual dealings with foreign companies. These interactions play out through complex processes of accommodation, competition and hybridization.

Far from being merely a matter of ethnographic curiosity, legal pluralism in Solomon Islands is a major development issue. For example ‘the tensions’ of 1998 to 2003 can be read (at least partly) as a result of unreconciled legal pluralism; arising because institutions of law and governance were not able to process conflicting claims being made by social groups with quite different understandings of what is fair and just. In the post-conflict environment, state institutions struggle to resolve competing claims to land and natural resources, tribal chiefs exercise ‘customary authority’ in dealings with investors and government officials are offered incentives to smooth deals with foreign investors.

RAMSI has done much to restore law and order in Solomon Islands by reinforcing and strengthening the central institutions of the state, however a broader set of questions about how Solomon Islands will be governed remain largely unanswered. These questions are made particularly complex by a number of factors including (1) the ethnic diversity of the population; (2) the geographic spread and inaccessibility of much of the archipelago; (3) the weakness of the state, and (4) rapid processes of economic and social change to which the country is subject as it is increasingly penetrated by a diverse range of outside influences including extractive industries, tourism, overseas aid, and intoxicating home brew (*kwaso*).

The classic modern response to these sorts of issues is to build ‘the rule of law’; that is a formal regulatory system (either unitary or federal) in which there is a clear hierarchy of law.

While the formal legal system may recognize customary law, customary law will only be valid to the extent that it is recognised by the state. Such a system exists in theory under the Solomon Islands Constitution of 1978.² In practice, however, *kastom*(s) have their own legitimacy separate from state law and as such represent a competing rather than a subordinate legal order. Solomon Islands thus displays a situation in which “several legal orders coexist irrespective of their mutual recognition” (von Benda-Beckmann 2006:59).

While the construction of a regulatory system in which clearly articulated state law plays the defining role may be a desirable goal in a modern state, it is one which is difficult to achieve in the face of conflicting and/or competing legal orders, and the competing sovereignties they imply. If, however, this is the goal - and both current policy and the constitutional framework of Solomon Islands suggest that it is - two further questions arise. Firstly how does a society make a peaceful and generally equitable transition from conflictual to ordered and/or complementary legal pluralism; and secondly – accepting that this is likely to be a long term process – what to do in the meantime.

Designing a practical response to what Benda-Beckmann (2006) describes as ‘strong legal pluralism’ is arguably one of the central challenges facing the Solomon Islands Government (SIG) and its development partners. The J4P program does not pretend to have simple answers to the question of how to do this. In fact the thinking underlying the program would suggest that the rule of law can only emerge out of social processes of interaction, deliberation and contest which are inherently unpredictable and as such difficult to engineer (March & Olsen (2006).³ Nevertheless an initial exploration of the law and governance environment in Solomon Islands suggests that the J4P approach - with its focus on locally specific routes to legal empowerment - may be a useful complement to the work which others are doing on justice sector issues.

ii. Issues Regarding the Administration of the Formal Justice System⁴

As a legacy of its colonial rule, Solomon Islands inherited a common law legal system and Westminster parliamentary system from the United Kingdom. The Independence Constitution enshrined a number of fundamental rights and freedoms, established an independent judiciary headed by the Chief Justice of the High Court⁵ and created three Constitutional law offices.⁶

The judiciary, at least at the higher levels (Magistrates Court and above) has a reputation for integrity and remains independent even though resource and capacity issues constrain performance. Cases involving contests over customary land and natural resources make up a significant portion of the High Court’s work load, giving a picture of a society that generates

² Section 76 of the Constitution (when read with Schedule 3) provides the basis for the recognition of customary law as “part of the law of the Solomon Islands” so long as it is not “inconsistent with [the] Constitution or an Act or Parliament.”

³ See also Dinnen (2008:30) who observes, somewhat more bleakly with regard to Solomon Islands, that ‘nation building is as likely to occur by default as by design.’

⁴ See Annex A for more expansive notes on the formal law and justice sector,

⁵ The Chief Justice heads five main courts: the Court of Appeal; the High Court; Magistrates’ Courts; Customary Lands Appeal Courts, and Local Courts. There are also a Coroner’s Court and a Juvenile Court

⁶ The Attorney General is the principal legal adviser to government; the Public Solicitor provides free public legal aid, and the Public Prosecutor pursues criminal matters on behalf of the state.

relatively high levels of litigation from the grass roots. A cursory review of High Court decisions indicates its willingness to make findings against both the government and influential commercial interests. Notably, a moratorium against logging in Isabel was upheld⁷ and injunctions have been granted against timber companies.⁸

Since the end of the Tensions, the courts have had to deal with an increasing number of cases, including a significant number of ‘Tension trials’ arising out of the period of conflict. RAMSI’s focus on central institutions of state has included heavy investment in the formal law and justice sector, including the court system and policy and legislative development.⁹ Significant numbers of in-line and advisory expatriate personnel have been placed in the courts (in both administrative and judicial functions), the Ministry of Justice and Legal Affairs and the Constitutional law offices, and significant capital outlay had been made on infrastructure. Court support has focused on the upper levels of the formal system, particularly criminal capacity to handle the Tension trials, with some success. The bulk of criminal matters arising from the Tensions have now been dealt with and attention is beginning to shift to other matters, particularly land cases and issues justice administration at the village level.

SIG has identified “justice delivered locally” as one of the key areas of its justice and legal affairs policy. As part of this approach the Government has committed to the localization of justice services including:

- Ensuring that “the authority of chiefs and other traditional leaders is recognized especially in the administration of justice.”
- Ensuring that “the law and justice sector is *properly resourced and re-localized* as and when appropriate in accordance with the RAMSI exit strategy;” and
- Ensuring “equitable and easy access to legal and judicial services throughout the country.”¹⁰

The Government recognizes that the goals set out in its policy will not be easy to realize. In particular it understands that the process of formalizing *kastom* is problematic because relations of power and legitimacy are transformed when state recognition supplants organic legitimacy as the basis for customary law. When this is overlaid with the influx of large market driven incentives it is further acknowledged that *kastom* may be more open to being “manipulated by individuals for self interest.”¹¹

⁷ *Success Company Ltd v Isabel Provincial Government* [2004] SBHC 3; HC-CC 085 of 2004 (4 August 2004)

⁸ see for eg: *Nivab v Delta Timber Company Ltd* [2006] SBHC 84; HCSI-CC 173 of 2005 (5 May 2006), and *Attorney-General v JP Enterprises Ltd* [2006] SBHC 14; HCSI-CC 193 of 2006 (2 June 2006)

⁹ The 2007-8 RAMSI Annual Performance Review notes that there is ‘little evidence of assessment of the capacity of the sector to provide equitable access to justice and protection of rights.’ RAMSI (2008) Annual Performance Report 2007/2008, p9

¹⁰ Solomon Islands (2007) “Justice Delivered Locally,” *Scoping Framework*, May, p1.

¹¹ *Ibid*, p8.

In the state court system, law and *kastom* frequently intersect in land and timber rights cases heard in the Local and Customary Land Appeal Courts.¹² As the lowest level of the judiciary, Local Courts are at the forefront of the Government's approach of improving access to justice. Local Courts were designed to sit in all parts of the country and be constituted in accordance with the law and customs of the local area. In practice, Local Courts are largely restricted to provincial centers and proceedings tend to take on a more formal character, which is foreign to its users. It is widely acknowledged that Local Courts are not functioning well. A Local Court has not sat on Guadalcanal in the last 12 months and the last period of hearings finalized only 5 cases. Given this rate of hearings the current backlog of 20 cases is significant. The mixture of low case intake and irregular sittings suggests that the local court is in a process of atrophy. Access to budgets for sitting fees and the like are said to prevent more frequent hearings. Due to capacity constraints the Courts now focus solely on land matters neglecting criminal and other civil cases. In these circumstances minor criminal matters must be then either dealt with informally by police and tribal authorities (with unclear results) or sent to the Magistrates courts.

Land and timber rights cases rarely settle at first instance, perhaps because of their complexity and fundamental relationship to the livelihoods and identities of the groups involved. It was reported that the entire case load of Local Courts is appealed to the Customary Lands Appeals Court (CLAC), and from there a significant number go on to the High Court. This lack of certainty and a timely remedy undermines community relations, is overwhelming court administrators and frustrating potential investors. In an attempt to resolve some of these issues, as well as promote *kastom* dispute resolution procedures, the Government has drafted a *Tribal Lands Dispute Resolution Panels Bill* (2008). The newly proposed Panels would take on all *kastom* land matters and the CLAC's timber rights appeal jurisdiction. The proposed Panels would resolve disputes and determine rights according to *kastom*, proceeding as informally as possible. The Bill proposes three important steps aimed at increasing the speed of decisions and the rate of final determinations: decisions must be delivered within 7 days of the end of hearings; decisions are binding on all people with rights in the land, even those who were not party to the hearing; and rights of appeal are narrowly limited to 'denial of natural justice' and 'lack of jurisdiction'.

Encouragingly, the Government is committed to extensive and in-depth community consultation on the Bill. Consideration of the new structure will require reflection upon the resource constraints and corruption issues that hamper the effective operation of existing lower level courts. Experience elsewhere suggests that when rights to land and natural resources are collectively held, creating space and allowing sufficient time for discussion and negotiation can be critical in ensuring equitable and durable agreements. If the processes adopted to resolve disputes are not sufficiently inclusive, understood and accepted as fair by parties, the 'losers' may not abide by the decisions, whether or not there are formal rights of appeal.

¹² Timber rights appeals are administrative appeals against the decision of the Provincial Executive declaring particular *kastom* groups the holders of rights to timber. Other groups claiming to be the legitimate and unrecognized holders can lodge an appeal in the CLACs.

3. THE PLACE OF CUSTOMARY GROUPS IN THE FORMAL LEGAL SYSTEM: A KEY ISSUE

Loyalty to ‘tribes, clans and lineages’ with defined territories and genealogies is the foundation of traditional systems of authority in Melanesian societies (Tuhanuku 2000; Cooter 1991). As such, one way to analyse the relationship between state and customary law is to ask how such groups encounter and are recognized by the formal legal system. This approach provides a shared analytical framework for examining a range of issues at the nexus of *kastom*, economic growth, and legal empowerment including land ownership, forestry, mining, business development and local governance. It also builds on an appreciation of “legal identity [as] a cornerstone of access to justice” (CLEP 2008:61).

The issue of how customary groups are recognized at law has been the subject of academic and policy debate since colonial times. It is an area on which there is also significant regional learning.¹³ Fingleton (1998) frames the issue elegantly and is worth quoting at length:

[T]he problem is frequently one imposed on indigenous peoples from “outside” to which they must make the internal adjustments. In legal terms, outsiders need to have some recognized authority that can be made legally accountable for the group, and it is the outsider’s legal system which largely determines the terms of that recognition, whether the outsider be a colonial power or a government in an independent nation-state. The legal recognition of indigenous groups is, therefore, frequently driven by outside interests, with the danger that it becomes a heavily one-sided operation. But legal recognition is not simply a device demanded by outsiders intent on interacting with indigenous groups. In an increasingly interdependent world, indigenous groups themselves find legal recognition to be of growing importance -- as a necessary part of bolstering their own ability to negotiate and transact with non-group members, and, at the same time, of protecting themselves and their resources against the undue interference of outsiders, including the state. The dilemma for indigenous groups is how to obtain the potential benefits of legal recognition while ensuring that the nature of that recognition does not seriously disrupt their cultural integrity and their ability to continue operating according to community-based laws and institutions (2).

In contemporary Solomon Islands these issues are important in a number of settings. Firstly, and most fundamentally – customary groups are landholders. Whilst land use remains purely customary no formal legal recognition is needed, however, when dealings with outsiders (private or state) are involved the question of how the group is recognized at law becomes central. Negotiations over timber and mining rights are distinct from but inherently linked to issues of land ownership. Secondly we are aware of a number of instances in which customary groups are involved in running businesses that are not directly related to land holding or resource extraction. These are treated very briefly in heading (ii) below on Business Development. Finally, and somewhat adventurously perhaps, we extend Fingleton’s framework to look at circumstances in which customary groups or their representatives are asked to play a role in the formal structures of government – treated below under the heading of Participation, Accountability and Governance.

¹³ A summary of the literature on ‘recognizing customary groups’ is contained in AusAID’s recent making land work study. Particular detail is provided on the experience in PNG and Vanuatu (AusAID 2008a:17ff).

i. Land & Natural Resources Management

With over 85% of the Solomon Islands under customary ownership and significant proportions of the country's registered land held by trusts representing customary groups, issues of land and natural resources management become a focus of discussions of commercial, customary and state interests. The challenge in dealing with these issues as expressed by one government official is to develop systems that respect the fundamental tenets of Melanesian land ownership (group tenure and inalienability) but at the same time facilitate development.¹⁴

Guadalcanal Plains Palm Oil – Positive Negotiation with Customary Groups¹⁵

The Guadalcanal Plains Palm Oil Plantation was originally established in the 1970s by the Solomon Islands Plantation Limited (SIPL) a company co-owned by SIG (18%), the Commonwealth Development Corporation (80%) and local landowners (2%). As part of the establishment of the plantation, land was acquired from the customary land owners, registered and then vested in five charitable trusts set up to benefit the five tribes of landowners. Many of the indigenous landowners saw the distribution of the benefits from the plantation as unfair. Their share in the company was low and much of the employment generated went to outsiders.

During the Tensions the plantation's oil mill was destroyed. SIPL abandoned the plantation and was liquidated.

In 2004, a PNG based company expressed interest in investing. Engagement was not easy. The plantation was at the heart of the Tensions. The Balasuna Guadalcanal Leaders Summit of 2005 declared itself against redevelopment. In addition, some members of the local house of chiefs wanted to contest the land boundaries between the five tribes. Youth and former militants were also skeptical. In order to move forward new trustees had to be elected as many of the original trustees had died. The election process became a platform around which community support could be tested. Pro-development trustees were elected. As negotiations progressed a series of public meetings were held. The proposed agreement was explained. This involved the landowners receiving a 20% stake in the company as well as increased revenues through a royalty on palm fruit produced. Through this process broad-based support for the agreement emerged.

An MoU and a 50 year lease were signed in April 2005. Since then the trustees have accumulated an investment fund of over S\$6 million. A similar amount has been distributed through the landowner trusts. The ongoing relationship between the company, the trustees and the communities has not been without troubles. There have also been issues with regard to the conduct of trustees whose powers and obligations appear to be only vaguely defined. To date, however, these issues have been able to be resolved through negotiations.

¹⁴ Given that issues relating to customary land holding systems are of such sensitivity, particularly when it comes to the involvement of international organizations, it should be noted at the outset of this discussion that (a) the World Bank understands that it is appropriate to recognize and support customary land tenure systems (World Bank 2003); (b) reforms in these areas should be lead by national governments in dialogue with their citizens; and (c) that reforms are likely best discussed in terms of an 'adaptation paradigm' (Fingleton 2005), in which customary systems are supported to develop in an evolutionary fashion in response to the changing needs of their members.

¹⁵ Based on discussions with Guadalcanal Plains landowner Eliam Tanirongo

As the project has evolved the legal structures of the landowners have become more complex. In addition to the five trusts, a land owners' association company has been registered. This organization represents the five tribes, facilitates dealings with the company and makes decisions on the use of the investment fund.

In addition to the main plantation the MoU provides for the establishment of small holder oil palm plantations to be developed by the landowners on their remaining customary land. Initial experience has been positive with families getting permission from their clans to plant new palms on tribal land.

The experience of Solomon Islands (as elsewhere in Melanesia) is that the engagement of customary groups in modern forms of private sector or state lead development can be fraught. Discussions on these topics are dominated by examples of environmentally destructive or otherwise unsustainable ventures facilitated by corrupt officials, deals struck by tribal elites or trustees acting largely in their own interests, violent local backlashes against investors and infrastructure projects delayed for decades due to intractable land disputes. In saying this we should note that a number of the people we met saw an upside to land disputes explaining that sometimes disputes are the only mechanism that protects land owners from injustice relating to exploitation of land, forest and other resources

Particularly difficult issues emerge in relation to resource extraction, for example when customary landowners negotiate timber extraction rights under the *Forest Resources and Timber Utilization Act* (Cap 40).¹⁶ Very broadly the process for acquiring timber rights involves (a) an application to the Commissioner of Forest Resources to negotiate with relevant government agencies and landowners; (b) the Provincial Executive holding a 'timber rights hearing' which determines issues including the identity of the timber rights owners, the extent of their rights and the manner in which the profits of the venture will be shared (decisions of which can be appealed to the CLAC); and (c) an agreement being negotiated between the recognized timber rights holders, the applicant and relevant government agencies.

Concerns over these processes can be seen in terms of the ways in which a customary group is recognized by the formal legal system. Particular issues arise given the role that government agencies and timber companies with direct interests in resource extraction play in these processes. The fast tracking of timber rights negotiations without first properly determining fundamental issues regarding the identity of the tribal group, its landholdings, decision making structures and the control of resource flows have been identified as significant causes of conflict.¹⁷

Conflict emerges at a number of levels: (i) within the land owning group – over who is a member of the group, who has authority to deal with land and for what purpose and under what terms; (ii) within the land owning group – over how the benefits of commercial activity should be distributed; (iii) with neighbouring landowners – who either claim the land in question or that the activities agreed to affect their interests; (iv) with the government over the exercise of regulatory authority or (v) with outside interests – over the terms of agreements and their implementation.¹⁸

¹⁶ An excellent database of Solomon Islands case law and legislation is available at: <http://www.paclii.org/> . For more details on the Forestry Act as it compares to the Mining Act see Annex B below.

¹⁷ See for eg Kabui J. in *Siloko v Tekopo* [2005] SBHC 140; HCSI-CC 513 of 2005 (17 November 2005).

¹⁸ These levels of conflict issues are also common more broadly in many interactions between state and society.

The desire to prevent and/or manage land and natural resources disputes has been an important motivation behind efforts to formally recognize patterns of customary organization, landholding and leadership. This has given rise to a number of innovative reforms. The Ministry of Land (with support from AusAID) has piloted the documentation of traditional forms of ownership through a genealogy mapping and survey process (in the Aluta Basin)¹⁹ and the Chief Justice is promoting a hybrid institution for the resolution of land disputes involving customary lands (Tribal Land Disputes Resolution Panels). There are reports of instances of more and less successful negotiation and dispute resolution approaches to land and natural resources but these are patchily documented. The box above on the re-development of the Guadalcanal Plains Oil Palm Plantation represents what seems to be a more positive example.

ii. Business Development

In addition to dealings over land and natural resources the mission encountered a number of instances of tribally based business initiatives. The form of these varies but includes charitable trusts; cooperative societies and limited liability companies. A new *Companies Bill* has been drafted with support from the ADB and is scheduled to be presented to parliament in early 2009. It contains provisions on the establishment of community companies which may be of interest to customary groups that wish to take on a corporate structure. Examples in this category include business ventures which have emerged on out of the Luru Land Conference on Choiseul²⁰ and companies based on sub-tribal groupings that are being launched using revenues from the Guadalcanal Oil Palm Plantation described above. The timeframe of the mission did permit a fuller exploration of this phenomena, however, it seems most relevant and should be followed up on as the program develops.

iii. Participation, Accountability & Governance

The SIG and particularly the provincial governments are seen as relatively weak in terms of their ability to deliver public goods to the local level (People's Survey 2008). At least as serious as problems over the delivery of services and infrastructure are a fragile regulatory capacity – particularly at the level of enforcement – and the facilitation by the state apparatus of the exploitation of natural resources by commercial interests under arrangements that do not give equitable benefits to resource owners.

There has been a tendency to look at this pathology primarily in terms of geographical, human resources and financial constraints on government. Another diagnosis, however, would emphasize, at least in equal measure, issues of political economy – systems of incentives and patterns of accountability.

Small constituencies,²¹ a first past the post voting system, low expectations of government and the availability of highly discretionary constituency funds which give rise to a system

¹⁹ For the mission's notes on the Aluta Basin pilot see Annex C; a case study was also written up on this pilot in 2007. See AusAID (2008b:47ff)

²⁰ The Luru Land Conference of Tribal Communities is a charitable organization established in 1981 to support a unified vision for development and governance of tribal issues on the island of Choiseul.

²¹ The average number of votes cast per constituency in 2006 is estimated at less than 6000. To win such a constituency in a first past the post system an MP might need as few as 1500 votes (indicative figures quoted to the mission – not authoritative).

where the relationship between parliamentarians and citizens can become focused on the provision of private goods in exchange for votes.²² An almost non-existent party system means that governments expend a high amount of energy on building and maintaining the loose factional coalitions that keep them in power. And with public revenues flowing largely from big ticket items such as aid, logging, and fisheries, downward accountabilities - focused on the provision of public goods (services, infrastructure, responsive regulatory authority etc) in a way that would benefit the rural majority - are all but absent. No surprise then that government expenditures are drained to service the recurrent expenses of a highly centralized civil service while investment spending (outside the constituency funds) is low and regulatory authority is often captured by private interests.

While it is tempting to think of fixes to these problems at the level of national politics,²³ a more fundamental question is to ask what countervailing source of power Solomon Islands society might provide that could shift more of the focus of government to the provision of public goods that are required for its people to prosper (health, education and an environment that would allow them to exploit their resources in a socially and economically productive manner).

The liberal response to this question is to suggest that the countervailing power required for better governance needs to emerge from civil society and systems of social accountability. A slightly more radical analysis might lead to a search for class based groups with both the incentives and the power to focus the state's attentions on their needs.²⁴ The mission attempted to approach this issue more empirically seeking examples where structures for downward accountability may have lead the state to be more focused on the provision of public goods. Three emerged. Firstly a provincial governance program on Isabel supported by UNDP (known as the tripod approach); secondly an initiative of the Solomon Islands Christian Association (SICA) Commission designed to engage communities in education sector planning; and thirdly the set up of the Central Kwara'ae Constituency of DPM Fono [see box below]

Table: Some Approaches to Accountability in Solomon Islands²⁵

| | State agency | Non-state bodies | Description |
|-------------------------------|-----------------------|------------------------------|--|
| Isabel Tripod Approach | Provincial government | Diocese Council of Chiefs | Consultative structures with church and chiefs around provincial government supported by UNDP. Addressed many issues affecting people of the province including effective and sustainable use of |

²² Whilst many donors, civil society representatives and government officers find fault with discretionary grant arrangements, many citizens, particularly in rural areas view it as an effective (and often the only) way in which goods are delivered to them.

²³ Ideas such as the implementation of preferential voting, rules limiting MPs freedom to cross the floor in parliament, and the reform of the constituency development funds have been floated and should not be discounted.

²⁴ The role of donors in this process is left aside for the purposes of the current discussion.

²⁵ More detailed notes on each of these initiatives can be found in Annex C.

| | | | |
|--------------------------------------|----------------------|--|--|
| | | | natural resources, customary land ownership, social order in communities, service delivery etc. |
| SICA – Education Initiative | Education department | Local churches Village school boards | Pilot in 17 primary schools in Malaita with support from Oxfam NZ. Church networks used to facilitate dialogue between school boards and the department on roles and responsibilities of government and communities in education. Seeks to generate increased community mobilization and local inputs into education planning. |
| Central Kwara’ae Constituency | MP | Churches Youth groups Houses of chiefs | Only constituency with a formal structure that facilitates engagement with the MP, participation of a range of groups in local planning processes and utilization of the constituency development fund. The MP has been re-elected since 1992. |

The engagement of the church and/or chiefly structures is a feature across these three initiatives. While the mission is not in a position to have properly assessed their outcomes – the experience of the above initiatives does suggest further enquiry into the engagement of customary and religious authority in governance processes.

Linking these examples back to our discussion on the place of customary groups in the formal legal system it is of note that neither of the structures mentioned in the table above (houses of chiefs and councils of chiefs) have – to the best of our knowledge – any foundation in Solomon Islands legislation. Nevertheless, they are clearly wide spread bodies in many parts of the country and they have been recognized by the High Court as customary authorities in numerous cases.

According to one informant these semi-formal local or regional organizations of chiefs are relatively new structures, at least among Melanesian groups. The same informant also suggested: (a) that the institutionalization of these chiefly bodies may have come about following the passing of the local courts act which requires that land cases be referred for settlement by chiefs prior to being heard at court; (b) that the decision making power given to chiefs in this process probably outstrips their traditional role which would have been more in the manner of mediation and recommendation making; (c) that this change in roles had undermined chiefly authority as it had made them more susceptible to corruption; and (d) that when incorporated into state structures chiefs and elders probably function better in advisory / deliberative than decision making roles.

It is of relevance then that our examples where customary authority has been engaged to enhance downward accountability all use traditional leaders in a consultative rather than a decision making role.²⁶ In discussions with those working on these initiatives²⁷ it was

²⁶ There is a parallel here to the consultative structures set up for ensuring the representation of customary authorities in Vanuatu.

suggested that one of the effects of incorporating customary and religious groups into formal consultative structures is to address the lack of trust and confidence from which the formal structures of government otherwise suffer. And here the argument turns back to growth: Because with the major assets of the country in the customary realm a lack of trust in the formal system manifests itself either in disputation or in the withholding of those assets from the formal economy.²⁸

4. OPTIONS FOR ENGAGEMENT

The J4P Solomon Islands will hire a Country Coordinator based in Honiara.²⁹ The Country Coordinator's first task will be to develop a full work program for J4P Solomon Islands. Work will begin with research, analysis and dialogue. Given, however, that the J4P program is able to build on existing analytic work and local knowledge accumulated by counterparts over years, activities which deliver tangible benefits in the short run are also anticipated. A number of options for engagement presented themselves during the mission. These options will likely not play out as exclusive alternatives. In addition to option (i) which will be taken up to start with, one or more of the other options will also be pursued (either concurrently or in sequence). These options currently considered include:

i. Analytical Work on Recognition of Customary Groups

As outlined in section 3 above, the ways in which customary groups are recognized for the purpose of engaging in formal administrative and/or commercial transactions will be an important part of understanding the possibilities for such groups to participate in, contribute to and benefit from economic growth in a more equitable fashion.

While experience of customary groups engaging in commercial dealings is often portrayed in very grim terms there is also a more nuanced story emerging both in the Solomon Islands and Melanesia more broadly. Without ignoring the worst case scenarios – for example the pattern of corrupt dealings leading to the depletion of old growth forests with little long term benefit to land owners - this literature points to the 'vibrant smallholder cash-cropping economies' across Melanesia which, through intensification as well as expansion, have often outperformed the plantation sector (Allen 2008:2). Anecdotal evidence from Solomon Islands also points to some more positive engagements between customary groups and outsiders for example in relation to agriculture, sustainable forest management, infrastructure development and tourism.³⁰

Case study research which documents the experience of customary groups engaging in the formal economy, as well interactions with state service provision, is suggested as a tool for

²⁷ It should be mentioned that mission member Ali Tuhanuku – has worked directly on both the Isabel and the SICA Commission education initiative.

²⁸ On the difficulties caused by lack of trust in the state see for eg: the Aluta Basin case, mentioned in Annex C and in more detail in the *Making Land Work* report (AusAID 2008b).

²⁹ This position has been advertised.

³⁰ Annex C provides some background information on a range of cases which the mission encountered in its discussions with various informants.

deriving lessons learned and reflecting on ways forward.³¹ While such analysis comes largely too late for the forestry sector³² a review which includes the forestry experience may provide lessons as new industries, in particular mining, tourism and plantation agriculture seek to engage customary land owners (and vice versa).³³

The details of this research would be developed in a concept note, however, the mission's initial consultations suggest that it would focus on identifying factors which lead to more and less successful engagements of customary groups in development processes whether lead by the private (forestry, mining, plantations, tourism joint ventures etc) or the public sector (most notably in relation to infrastructure, but could also include the allocation of project and constituency grants, the provision of government services and community development schemes). A brainstormed list of potentially important factors influencing outcomes might include the legal status of any land involved; the nature and size of the development; approach to negotiations; the formal legal status of the group (purely customary; or customary mixed with a registered charity, trust, co-operative; or limited liability company); issues relating to the structure and leadership of the group; the approach to negotiations; the role played by government agencies; systems for the distribution of benefits etc...

Based on our discussions with representatives of customary land owners who have experience in commercial dealings the use of video may complement this research. The preparation of video case studies would make this research accessible beyond the usual report reading audiences and could also be useful for training and awareness raising purposes. The preparation of such learning materials could feed directly in the *Capacity Building for Rural Business Development* sub-component of the Rural Development Project which will be working through the SME Council and the Small Business Enterprise Center.

Issue to note: Research on the above questions will need to be pursued building upon and feeding into broader multidisciplinary analysis done by the Bank under the "sources of growth" umbrella, and the focus on mining, as well as the IFC's work on the business enabling environment for members of customary groups and analytics on 'big-ticket' operations.

ii. *Programs under the Minister of Justice & Legal Affairs*
[Justice Delivered Locally reforms / Activities related to the Land Dispute Resolution Bill]

The Ministry of Justice and Legal Affairs is leading a range of activities that are designed to facilitate effective, equitable and culturally appropriate systems for accessing justice at the local level. This includes (i) a commitment to the revitalization of the local court system, and

³¹ Comparative case study research supported by the J4P program for example on land disputes in Cambodia (Adler *et al* 2006) and on disputes involving local government in Indonesia (Woodhouse 2004) proved useful in informing both government policy and donor programming. A key feature of both of these studies is that they look at both positive and negative outcomes. The Indonesia study in particular focused on cases in which corruption was successfully addressed by villagers (positive deviation) as a way of deriving lessons about what sort of approaches might work programmatically.

³² The forestry is expected to go into rapid decline due to resource depletion starting 2009 (IMF 2007).

³³ The internet site of the foreign investment division of the Solomon Islands Ministry of Commerce (<http://www.investsolomons.com>) for example lists dozens of possible projects and business plans seeking international investment (mainly in the tourism sector) many of which involve customary land or joint ventures with customary groups.

(ii) the introduction of a new *Tribal Lands Dispute Resolution Panel Bill* designed to establish a new hybrid (formal/customary) tribunal for dealing with cases involving tribal land.

Both of these areas have potential for cooperation. In relation to the local courts for example, the Ministry has commenced a research initiative, however, this has not been completed due to concerns about the quality of the work produced. A useful initial engagement may be to review that experience and assist the Ministry in planning next steps.

The *Tribal Lands Dispute Resolution Panel Bill* has been drafted and the Permanent Secretary indicated that consultations are underway. The need for a thorough and well documented consultation process on this bill, including at the local level is clear. The mission discussed possible engagement around the consultation with the Permanent Secretary. Assuming passage of the Bill, support for capacity building, community engagement and monitoring and evaluation would likely be needed. These are also areas where the J4P program may be of assistance. Discussions with RAMSI and AusAID in Honiara suggested that J4P engagement in these areas could compliment their programming.

With their focus on the reform of hybrid (customary/judicial) authorities at the local level and their involvement in land issues, the above areas of possible engagement have obvious synergies with the research concept on the recognition of customary groups articulated in section (i) above.

iii. Upstream Advice to Customary Groups Engaging in the Formal Economy

A widespread concern exists that customary groups are ill equipped to deal with the challenges of engaging in formal dealings. There are also – it seems – few avenues for the provision of advice on such issues. As a consequence groups are largely dependent on either their leaders in consultation with their business partners (investors, timber companies etc) or the involved government agencies to facilitate transactions. Upstream support - that is support which would prepare people for commercial dealings - seems particularly scarce. To the extent that independent advice is sought this usually happens once a dispute has emerged.

One effort to address this issue has been initiated by the Public Solicitor's Office. They are in the process of establishing a unit to provide advice to customary land owners on a broad range of natural resource issues. The unit will employ local lawyers and work in partnership with an NGO (Live & Learn) which has existing provincial networks and experience with community engagement. These activities have significant initial funding for 1 year through the EU STABEX program but these funds cannot be extended beyond 2010. The sustainability of the program is thus in question.

The proposed analytical work on the experiences of customary groups engaging with the formal legal system will no doubt shed light on the sort of capacity building and advisory services that are needed. Should the Public Solicitor find it useful, the J4P program could support a review of their work. Other avenues for the delivery of these types of services - might include NGOs, the Ministry of Commerce or the small business association that will be providing capacity building programs for rural business under the Rural Development Project.

iv. Building Capacity for Policy Oriented Research

As a program starting from scratch in what is clearly a complex legal environment a J4P program in Solomon Islands should commence with exploratory research. Research is a

crucial part of building an empirical basis for ongoing reform; building local research capacity therefore provides the platform for locally driven, empirically based policy reform.

Undertaken – where possible – in collaboration with government institutions or local research institutions, J4P research is designed to contribute to the development of both research capacity and policy dialogue at the national level. This seems particularly important given the track record in Solomon Islands of “well meaning outsiders” ending up causing bitter disputes “instead of putting in place structures that would allow those people who knew the complexities of the situation to manage it in the way they felt best” as opposed to externally attempting to direct and control the process.³⁴

The need for improved research capacity and better informed national level policy dialogue was stressed by both the Chief Justice of the Solomon Islands, Sir Albert Palmer and the Permanent Secretary of the Department of Justice and Legal Affairs James Remubatu during the WB/AusAID J4P mission to the Solomon Islands in 2007. To this end, the project will explore the possibility of developing and implementing some the program’s research in partnership with existing state institutions.

Options for engaging government institutions in the research process include: (a) the Ministry of Justice and Legal Affairs (through the research that they are doing on local justice); (b) the newly revived Law Reform Commission (which has instructions to conduct reviews on land issues including the ownership of foreshores and timber rights); (c) the Ministry of Women’s and Youth Affairs (which is establishing a new department devoted to policy oriented research on issues related to women and children’s rights and would be interested in looking at women’s and youth involvement in decision making regarding land and natural resources as an issue); or (d) the Ministries of Commerce and Rural Development (both of which have mandates for small/micro enterprise development).

v. Supporting Cross Country Learning

Cross country learning, particularly within Melanesia but also from Australia and New Zealand was identified as valuable by many of the Solomon Islanders with whom the mission met. Strategic needs in this respect, for example with regard to the international experience of recognizing and supporting customary groups, could be supported through the EAP-J4P regional ‘Community of Practice & Knowledge Sharing’ component. An initial knowledge sharing event will be organized in mid-2009 with Solomon Islanders included among the participants.

5. CO-ORDINATION & LOGISTICAL ISSUES

The program will be managed by a country coordinator based in Honiara. She/he will operate as part of the World Bank Solomon Islands country team and report to the EAP-J4P program Task Team Leader in Washington, DC. Technical support for the country will be provided by a senior advisor based in the region. Additional technical support, specifically in relation to research methods and customary land management will be available through the program.

³⁴ McDougall (2007) “Paths to Peace in the Western Solomons,” paper presented at the Mediating Across Difference Workshop, University of Queensland, 29-31 March.

Inception funding for the program is US\$250,000. This will support the program through its first 12-18 months. A review will be conducted after 9 months on the form in which the program should be continued. In any case, work with Solomon Islands would continue as part of the regional J4P EAP initiative's focus on cross country learning. Cross support for new or ongoing World Bank projects should also be available. The continuation of a self standing Solomon Islands J4P country program would be dependent on funding and demand from local counterparts.

In addition to those mentioned in the body of this aide-mémoire the mission is aware of a number of donor initiatives with which the J4P program should coordinate closely. These include:

- The follow on from the AusAID's Solomon Islands Institutional Strengthening of Lands Department Project (SIISLAP). This project has recently wound up. An interim program is in place as AusAID and SIG negotiate a longer term engagement. Also relevant to land issues, AusAID's Pacific land programme anticipates an engagement in Solomon Islands.
- AusAID is also currently in the process of developing a follow on from their current forest sector project. This is expected to take a forest livelihoods approach. This may be of relevance given the J4P program's interest in the productive sectors.
- Discussions on RAMSI's approach to accountability and anti-corruption revealed a common interest in community engagement over natural resource extraction; joint interest in better understanding community, state, private sector interactions around these issues and in particular on learning the lessons from the forest sector in this regard.
- The World Bank Group's own RDP and IFC programming should be engaged with a view to developing synergies.

Issue for further discussion: There are a number of options for structuring donor/government coordination around the J4P engagement including (a) constituting a local J4P advisory committee; (b) supporting the establishment of a broader government lead forum for inter-agency coordination on relevant issues or (c) undertaking informal consultations with relevant agencies as necessary.

6. NEXT STEPS

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|---------------|--|
| February 2008 | Field applications for country coordinator |
| February 2008 | Circulate discussion note to SIG |
| March 2008 | Interview and select country coordinator |

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ANNEX A – NOTES ON THE FORMAL JUSTICE SECTOR

i. Introduction

These notes outline impressions of the state law and justice sector gained during a Justice for the Poor (J4P) mission to Solomon Islands in December 2008. The section also touches upon some special initiatives that may be of interest to the Bank and J4P. These impressions outline the structure of the law and justice sector, current constraints and the nature of proposed reforms; particularly as related to the intersection between law and *kastom*. The nature and role of *kastom* is very much at issue in the state law and justice sector. For example: customary decision making is required before land matters are allowed to enter the Local Courts; *kastom* rights to land are determined in the Local Courts; and *kastom* responses to crimes are taken into account in criminal sentencing. The Constitution states that customary law shall have effect as part of the law of Solomon Islands³⁵ to the extent that it is not inconsistent with the Constitution or an Act of Parliament. In reality, the fit between state law and *kastom* is fraught with difficulties, both conceptual and practical.

Since 2003, significant donor support has been provided to the state law and justice sector, particularly through RAMSI. To date, support has been focused on institutional strengthening, infrastructure development and capacity building. Significant numbers of in-line and advisory expatriate personnel have been placed in the courts, the Ministry of Justice and Legal Affairs and the constitutional law offices. Support has also been given to policy and legislative development. Some successes are evident, particularly in the completion of high profile criminal trials, but the 2007-8 RAMSI Annual Performance Review notes that there is ‘little evidence of assessment of the capacity of the sector to provide equitable access to justice and protection of rights.’³⁶ The 2008 People’s survey asked some questions about perceptions of access to the formal justice system. Results show that only about a third of those who had ever wanted to take a case to court had done so. The most common reasons for not doing so were being afraid of going to court, not knowing how and affordability.

ii. Court System

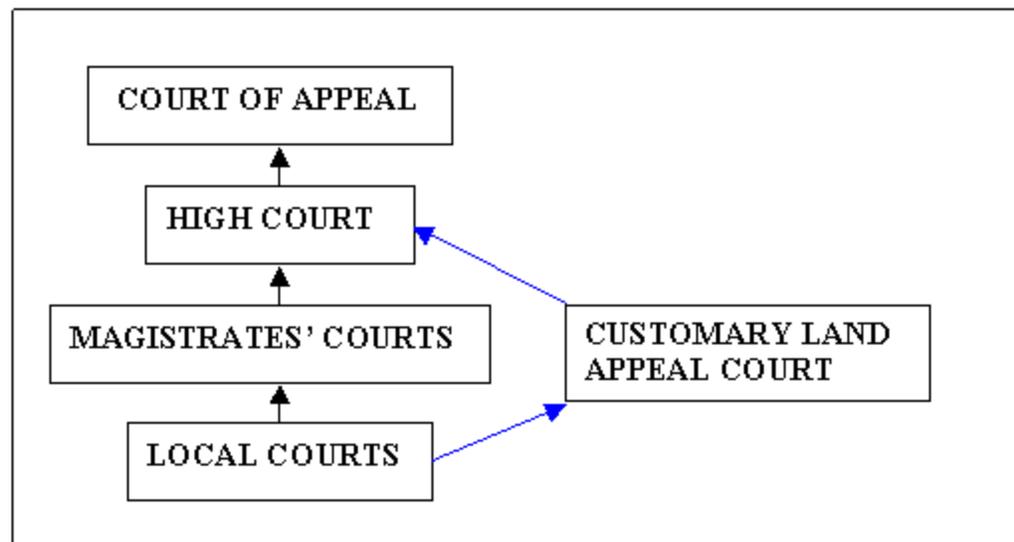
The court system was one of the few areas of the state that continued to function and retain its integrity during the Tensions. The higher courts particularly are considered independent and competent. Capacity and financial constraints are particular constraints at the lower levels. Since the end of the Tensions, the courts have had to deal with an increasing number of cases, including a significant number of ‘Tension trials’ arising out the period of conflict. This increase in case load has tested capacity. Significant RAMSI support has been invested in the courts, including the placement numbers of expatriate personnel in both administrative and judicial positions. Facilities have been upgraded and new court houses are being built. Court support has focused on the High and Magistrates Courts, particularly criminal capacity to handle the Tension trials. There has been some good success in

³⁵ Section 76 (and Schedule 3), see http://www.pacii.org/sb/legis/consol_act/c1978167/.

³⁶ RAMSI (2008) Annual Performance Report 2007/2008, p9.

processing cases.³⁷ The bulk of criminal matters arising from the Tensions have now been dealt with and attention is beginning to shift to other matters, particular land cases and the lower courts.

The head of the judiciary is the Chief Justice and there are five main courts: the Court of Appeal; the High Court; Magistrates' Courts; Customary Lands Appeal Courts, and Local Courts.³⁸



Source <http://www.paclii.org/sb/courts.html>

In the court system, law and *kastom* frequently intersect in the Local Courts, Customary Land Appeals Courts and Magistrates' Courts, which all operate under the supervision of the Chief Magistrate. The high court does not determine matters of *kastom* but appeals and injunctions in cases involving customary groups are often heard.

Local Courts have jurisdiction to hear minor criminal cases, civil claims and disputes over *kastom* land. The Local Courts Act³⁹ states that Local Courts are to be constituted in accordance with the law or customs of the people of the area in which the court has jurisdiction. In practice, Local Courts tend to take on a more formal character which is foreign to many users; including a panel of judges sitting before parties who make submissions, adduce evidence and cross-examine witnesses.

³⁷ For example, at the end of 2006, the average length of time on remand was 16 months (2008 State of the Judicature Report). This had been reduced to 4 months by June 2008 (2007/8 RAMSI Annual Performance Report).

³⁸ There is also a Coroner's Court and a Juvenile Court

³⁹ See http://www.paclii.org/sb/legis/consol_act/lca149/

The panel of judges consists of three members chosen by the Local Court Clerk from a list approved by the Chief Justice. Members are placed on the list by the Chief Justice (upon recommendations from the Magistrates and Provincial Governments) for their local knowledge and status, and often contain many former public servants and police officers. The Clerk, a public officer, also sits on the panel, records proceedings and writes up decisions. Criminal and civil (besides land) decisions are reviewed by a magistrate in Honiara, before judgment is delivered locally to the parties.

It is widely agreed that Local Courts are not functioning well and indeed in many areas they are not functioning at all. The Courts do not sit often enough, they are confined to certain provincial areas, they fail to hear many criminal and many civil matters and their decisions are often appealed by the parties. Tales of corruption undermine the legitimacy and authority of the Local Courts. No Local Court has sat on Guadalcanal in the last 12 months and the last sitting finalized only 5 cases.⁴⁰ Given this rate of hearings the current backlog of 20 cases is significant. The mixture of low case intake and irregular sittings suggests that the local court is in a process of atrophy. Access to budgets for sitting fees and the like are said to prevent more frequent hearings. Local Courts often sit in the provincial capital or main towns, as costs and logistical difficulties prevent them from sitting in areas where cases arise. Formerly, court clerks were located on each island, but the centralization of administrative support within the district Magistrates' offices has decreased accessibility and the impetus to organize hearings. There are plans in 2009 to reverse this with the placement of around 15-20 clerks throughout the country. The current backlog of cases and resource constraints means that only land cases are being heard. All criminal matters are currently being referred to the Magistrates' Court, with presumably many criminal, as well as other civil, matters not being reported or going unheard. The Chief Magistrate has indicated plans in 2009 to train Local Courts to take on minor criminal matters, foreseeing that the jurisdiction to hear land matters will be removed under Tribal Lands Dispute Resolution Panels Bill 2008 (see below), freeing up capacity.

The Customary Lands Appeal Courts (CLAC) hear appeals on land matters from the Local Courts. The CLACs also hear appeals arising from the administrative decision of Provincial administrations to allocate timber rights to customary groups under the Forest Resources and Timber Utilisation Timber Act.⁴¹ Under this Act, the provincial executive identifies persons who it believes hold the timber rights over customary land. The identification is advertised and aggrieved parties can appeal this decision to the CLAC.⁴² Each CLAC matter is heard before five members, including representatives from the area where the matter originates, sitting with a Magistrate.

A common complaint with the court system generally is that 'nothing settles'. Before land matters can be heard in the Local Court, the parties must have referred the dispute to local chiefs and exhausted all traditional means of dispute resolution. Many view this step as ineffective and unnecessary as any unsatisfied party can lodge the matter in the Local Court.

⁴⁰ In 2008, it is reported that the Local Courts sat three times in Western Province, twice in Malaita and only once on Isabel, with each sitting lasting around two to three weeks.

⁴¹ See http://www.paclii.org/sb/legis/consol_act/fratua427/

⁴² Disputes between the rights holders and any logging companies they choose to negotiate with are heard by the High Court, but these are rare compared to disputes between different *kastom* groups claiming to be the rights holders.

It is commonly believed that few cases are settled at this stage and matters that are heard are then most often appealed. The Clerk of the Guadalcanal Local Court reported that 100% of land cases before his Court are appealed to the Customary Land Appeals Court; and furthermore 100% of cases before the Guadalcanal Customary Land Appeals Court are appealed to the High Court. When the issues at stake are as important as land, both central to a community's identity as well as its most important resource, all avenues of recourse are likely to be tried. Furthermore, in land matters, Local Courts only determine disputes between the parties before the court, and not the final ownership of the land, allowing third parties to re-open disputes by claiming rights and upsetting any determination that the Courts may have made.

The Government has identified "justice delivered locally" as one of the key areas of its justice and legal affairs policy. As one means to implement this policy, the Ministry of Justice and Legal Affairs commenced a review of the operation of the Local Courts. A stock take has been completed but the report has not been made public. Data collected likely represents a rich resource on both the functioning of the Local Courts and more broadly on disputes and the interaction between *kastom* and the state. It remains a priority of the Ministry to pursue this research and it is something on which J4P could assist should the Ministry so desire.

As a further part of the move towards "justice delivered locally" the Cabinet has recently approved the Tribal Lands Dispute Resolution Panels Bill 2008⁴³ for public consultation. The Bill is an attempt to provide a more efficient means of determining and finalizing *kastom* land and timber rights cases. Under the Bill, all existing tribal land disputes in the Local Courts and the CLACs would be transferred to newly established Panels as well as all new matters. The proposed Panels would resolve disputes and determine rights according to *kastom* and proceed as informally as possible.⁴⁴ The Bill proposes three important steps aimed at increasing the speed of decisions and the rate of final determinations, namely: decisions must be delivered within 7 days of the end of hearings; decisions are binding on all people with rights in the land, even those who were not party to the hearing; and rights of appeal are narrowly limited to 'denial of natural justice' and 'lack of jurisdiction'. RAMSI has been supporting the process through a legislative draftsman in the Ministry of Justice and Legal Affairs, who will also be supporting consultation on the Bill throughout 2009. Both the Permanent Secretary for Justice and Legal Affairs and representatives from RAMSI have responded favorably to the possibility that J4P could support consultations on the Bill as well as evaluations of its implementation if and when it is passed.

The Magistrates' Courts have both civil and criminal jurisdiction. There are currently 12 magistrates nationwide with eight positions vacant. Principal Magistrates are based in

⁴³

See <http://www.paclii.org/sb/legis/bills/Tribunal%20Lands%20Dispute%20Resolution%20Panels%20Bill%2008.pdf>

⁴⁴ Panels will consist of three members, appointed from a National Membership Register. Eligibility criteria for appointment to the Register include knowledge of the customary rules applying to the land in the member's area or being the custodians of the land, and preclude any holder of elected office. Prior to the hearing, a notice of the meeting, including a list of seven potential members from the relevant area (including one woman, if one is on the Register), will be advertised allowing anyone with an interest in the land to join the hearing and also allowing anyone to object to any of the proposed members.

Honiara, conducting provincial circuits,⁴⁵ with three Magistrates based in Malaita, Western and Makira provinces. Magistrates' Courts hear appeals from the Local Courts operating in their area. There is currently a considerable gap in dealing with minor criminal matters. They are not dealt with by the Local Courts, as designed, and Magistrates' Courts have infrequent hearings in the provinces.

iii. State Law Offices

The Constitution creates three independent public law offices: Attorney General; Public Solicitor, and Director of Public Prosecutions.

The **Attorney General** is the principal legal adviser to the Government, appointed by the Judicial and Legal Services Commission acting in accordance with the advice of the Prime Minister. If the Minister responsible for justice is not a person entitled to practice law in Solomon Islands, then the Attorney-General is entitled to take part in the proceedings of Parliament as adviser to the Government, but absent the power to vote.

The **Public Solicitor** provides free legal aid, representation and advice to the public. Approximately three quarters of all cases are criminal and the level of representation for defendants is reportedly generally quite good. Approximately half the civil cases concern issues of domestic violence, protection orders, custody and maintenance. Outside of the Family Law Centre, any kind of free legal support for the public is limited. The Public Solicitor has also undertaken legal and civic rights awareness through clinics.

The Public Solicitor has also taken up cases representing *kastom* land owners. Typical cases include injunctions in the High Court to stop the distribution of resource rents whilst ownership is determined, as well as injunctions against logging company activities.

The Public Solicitor has recently received some EU funding to create a Landowners Advocacy and Legal Support Unit. The role of the Unit will be to provide a broad range of advice to landowners on their natural resources rights. It will include legal resources to assist communities to form associations and advice on how to structure the distribution and use of benefits. The Unit is exploring a partnership with Live and Learn, an NGO with community development experience and provincial networks. The Unit will also have a fund to support public interest litigation and is receiving support from the Environmental Defenders' Office in Sydney on this and broader strategic planning matters. The Unit plans to commence operations in early 2009. Questions exist about the long-term sustainability of the initiative.

The role of the **Director of Public Prosecutions** is to institute and undertake criminal proceedings. The Director is appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

⁴⁵ In 2007, 54 circuits were conducted to all provinces (State of the Judicature Report 2008) this is likely to be significantly less for 2008 as operating costs for the ship that facilitated the 2007 circuits were not budgeted for.

iv. Legal Profession

The legal profession is governed by the Legal Practitioners Act.⁴⁶ At the end of 2008, there were 89 positions for government lawyers, with 28 unfilled.⁴⁷ The public sector has found it difficult to recruit lawyers, in part because of competition from the private sector, in which approximately 30 lawyers are employed.

Solomon Islands does not have a law school. Most Solomon Islands law students study law at the University of the South Pacific (USP) which has a center in Honiara where law students can undertake the preliminary years of their degree. Final years are undertaken at USP's law faculty in Port Vila or at the main campus in Suva. The University of Papua New Guinea and Australian and New Zealand universities are also popular. Twenty one lawyers expected to graduate in 2008.⁴⁸

One issue raised by the profession is the lack of an effective complaints system for practitioners. Membership to the Bar Association is voluntary, which combined with the small size of the profession and the lack of concrete complaint handling rules, makes investigating complaints and disciplining lawyers difficult.

v. Other Initiatives

Constitutional Reform

Arguments in favor of transforming the Solomon Islands unitary state into a federation have been made since before Independence. Transformation to a federation was one of the tenets of the 2000 Townville Peace Agreement. Common arguments in favor of a federal structure include more equitable and efficient use of resources (particularly those arising from natural resource extraction) and increased citizen participation in government.

A Constitutional Reform Unit in the Prime Minister's Department has been coordinating the reform process. A new constitution was drafted in 2004 and a congress of representatives, including an Eminent Persons Advisory Group, is currently working through seven thematic committees to consult on, and explore issues raised by, the draft. Three of the committees have already concluded their consultations. In early 2009, a committee exploring the proper role of customary law in the new constitution, including options to devolve powers currently held by the courts to chiefs, will commence meetings. It is possible that a referendum will be held to consider adopting a new Constitution.

Concerns raised about the Constitutional reform, include: restrictions which might be placed on citizens' freedom of movement under a federal structure; the formula by which resources will be shared; and potential increased costs of state government, at a time when the national government is having trouble funding adequate services of its own. One option under consideration is the creation of separate state judiciaries.

⁴⁶ See http://www.paclii.org/sb/legis/consol_act/lpa207/

⁴⁷ Dawea, E (2008) 'Sogavare questioned Kaua on National Lawyers,' *National Express*, 5 December 2008, p5.

⁴⁸ Dawea, E (2008) 'Sogavare questioned Kaua on National Lawyers,' *National Express*, 5 December 2008, p5.

Truth and Reconciliation Commission

The Truth and Reconciliation Commission (TRC) was created by an Act of parliament in September 2008.⁴⁹ The objective of the TRC is to promote national reconciliation and unity. It is widely held to be a nationally owned and driven process and the government has committed SBD\$10m for its implementation.⁵⁰ The TRC is mandated to examine and report on human rights violations arising between the period of 1 January 1998 and 23 July 2003. It also has the role of devising policy recommendation to prevent future violations. The TRC has powers to investigate incidents and compel witnesses to appear, however witnesses cannot be compelled to incriminate themselves or their immediate families and no statements can be used in court or other proceedings. The TRC will not replace the criminal or civil functions of the courts and has no power to grant amnesties.

The TRC will consist of 5 Commissioners, 2 of whom will be foreign nationals. None have yet been appointed. The process will begin by mapping the numerous ad-hoc reconciliation activities that have already taken place. Whilst the Commissioners will largely determine the Commission's procedures it is foreshadowed that up to 20 public hearings will be held across the country, preceded by the community-based collection of statements and smaller-scale workshops. A small research team within the TRC will support the Commissioners. The TRC will likely run for two years and commence full operations in mid to late 2009.

The International Center for Transitional Justice (ICTJ) and UNDP are currently providing technical support to the TRC, with further donors being approached to fund operational costs. The ITCJ will place a full-time international record keeping and capacity building adviser in Honiara in early 2009. It is foreshadowed that a range of academics and research institutions will investigate and publish on the TRC process. J4P's programming will likely benefit from a close observation of the TRC process and an examination of the information collected by the TRC, as well as associated research.

Land Settlement Commission of Enquiry

Honoring an obligation contained in the Townsville Peace Agreement, in 2008 the government approved the establishment of a Commission of Enquiry into land settlement on Guadalcanal. The Commission will explore the settlement of people from other provinces on Guadalcanal prior to the Tensions. The role of the Commission is to determine the whether the settlers acquired land in accordance with both *kastom* and law. The Commission will hold public hearings and make findings and recommendations.

The Commission will comprise three non-national Commissioners, of which the chairperson, Brian Brunton (Papua New Guinea) has already been appointed. The Commission will likely start in early 2009 and last for one year (working separately to the TRC).

⁴⁹ Truth and Reconciliation Commission Act 2008, see

http://www.pacii.org/sb/legis/num_act/tarca2008371/

⁵⁰ The TRC is seeking a further approximately SBD\$18m from development partners.

Law Reform Commission

The Solomon Islands Law Reform Commission is an independent statutory authority established under the *Law Reform Commission Act* 1994.⁵¹ It lay largely inactive for many years and has only been recently revived under the Chairmanship of the former High Court Justice, Frank Kabui. The Commission sees one of its strengths as conducting in-depth community consultations on law reform issues and reflecting these in its recommendations to government.

The Commission receives references to review specific areas of law from the Minister for Justice and Legal Affairs. It currently has 11 references before it, all dating from 1995 and 1996. A broad range of subject areas are encompassed by the references, including: the ownership of timber on customary land and the allocation of timer rights; the operation of the Penal Code and Criminal Procedure Act, both of which were adopted prior to Independence; the ownership, control and use of land below the high water mark; and the application in the Solomon Islands of United Kingdom laws enacted before 1961.

The Commission's current work program is largely occupied by the reference on the Penal Code and Criminal Procedure Act, which is likely to take up to three years. Initial consultations with key stakeholder have taken place and an issues paper has been drafted. The next stage will be nationwide public consultations. The work of the Commission will result in the making of recommendations to the Minister, likely including a draft Bill with explanatory notes. The Commission may also concurrently proceed with the reference on land below the high water mark. J4P's work on models of successful partnership between the state, developers and community groups could inform the work of the Commission in this area.

⁵¹ The Commission's website is at www.paclii.org/gateway/LRC/SILRC/index.shtml.

ANNEX B – TABULAR COMPARISON OF THE FORESTRY AND MINING ACTS

The table below sets out some of the issues in relation to the recognition of customary rights under the *Forest Resources and Timber Utilization Act* (Cap 40) and the *Mines and Minerals Act* (Cap. 42).

| Forestry Act | Art. | Mining Act | Art. |
|---|------|---|------|
| <i>Issues of Ownership</i> | | | |
| Timber rights are negotiated with customary timber rights holders. | 8(3) | Minerals ‘in or under lands’ belong to the ‘people and the Government of Solomon Islands.’ Surface access rights must be negotiated with customary owners. | 2 |
| <i>Process for Engaging Customary Owners</i> | | | |
| <p>Provincial government holds a timber rights hearing to determine:</p> <p>(a) whether or not the landowners are willing to negotiate for the disposal of their timber rights to the applicant;</p> <p>(b) whether the persons proposing to grant the timber rights in question are the persons, and represent all the persons, lawfully entitled to grant such rights, and if not who such persons are;</p> <p>(c) the nature and extent of the timber rights, if any, to be granted to the applicant;</p> <p>(d) the sharing of the profits in the venture with the landowners; and</p> <p>(e) the participation of the appropriate Government in the venture of the applicant.</p> <p>(f) the government then facilitates a negotiation on the acquisition of the timber rights</p> | 8 | <p>The Director of Mines:</p> <p>(a) identifies and records the names of the landowners, land holding groups, or any person or groups of persons having an interest in the land in the prospecting area;</p> <p>(b) enters into negotiations with the landowners to in order to obtain surface access rights;</p> <p>(c) makes arrangements for the payment of surface access fees and compensation for damage; and</p> <p>(d) in consultation with the landowners, appoints trustees, for the purposes of paragraph (c).</p> | 21 |
| <i>Appeals on issues of customary ownership</i> | | | |
| Appeals on questions of the identification of timber rights holders and the extent of timber rights granted | 10 | Not specified in the act. Presumably a dispute over who is the owner of the surface right is a customary land | |

| | | | |
|---|---|--|----|
| go to the CLAC which makes a final determination of these issues. | | dispute and as such would be heard by the local court (if it cannot be resolved by the chiefs) see <i>Local Courts Act</i> (Cap. 19) | |
| <i>What happens if there is no agreement</i> | | | |
| The provincial government recommends that the Commissioner of forests deny the application for a license. | 9 | Provisions for the compulsory acquisition of surface access rights by the government. | 33 |

ANNEX C – NOTES ON CASES ENCOUNTERED DURING THE MISSION

In addition to the examples detailed in the body of the Aide-mémoire, the following examples were raised with the J4P mission and may warrant further investigation. They were presented to the J4P team as both successful and less successful examples of customary groups engaging with development. No claims are made to completeness or accuracy in the below.

- **Binah Harbor** (Malaita): The influx of Malaitans to Honiara and other Provincial Centres in search of employment opportunities, among other things, prompted the Government to propose an international port on Malaita Province to serve as a growth center with the hope that it would provide opportunities for commerce and general employment opportunities. Since 1990s successive governments have been trying to get the land registered but dispute between tribal groups on land boundaries has stalled the process up to now. Never developed. Multiple distinct tribes claiming rights over the area.
- **Malo Land Owners** (Malaita): EU had a major Jetty infrastructure project. The one on Malo, North Malaita was not built because the land owners wanted land rent for use of their land. Land owners couldn't decide who owned the land or where to locate a wharf so missed out on EU funding for construction.
- **Noro Industrial Sea Port** (Western Province): Noro port is the major international port and industrial area in western Province. Land was acquired and infrastructure development was relatively less problematic in relation to land claims etc.
- **Ramata Tourism Venture** (North New Georgia): a successful joint venture between an Australian partner and local owners. The local owners set up an effective consultative mechanism with tribal land owners. The distribution of benefits was also claimed to be satisfactory to land owners.
- **North New Georgia CFC**. MP elected unopposed. Reforestation. Legal Adviser (Jackson Piasi). Twice yearly conference. The history of the area includes the acquisition of timber rights and harvesting of forests without wdie consultations. Infuriated land owners burnt tractors, logging plans, and timber camp.
- **Anuha Resort** (Gela, Central Province): Begun with an Australian developer. A tourism development which began successfully but they went array and resulted in the burning down of the resort. The Anuha resort started with successful negotiation between land owners and a foreign developer (investor). However, the foreign developer sold the resort to another foreign investor without consultation with the land owners. The land owners set fire to the resort and it burned to the ground.
- **Gold Ridge Mine** (Guadalcanal): Landowners having a shareholding in the venture. The creation of a downstream landowners association. The mining company successfully negotiated with land owners to open the Gold rich mine. While the land owners of the area where there is immediate mining activities were happy with agreement with the company, the tribal groups who at the downstream areas were not happy because they claim that the river that have been used in the area is now

- polluted. They also claim that the mining activities upstream has resulted in frequent flooding of their area where there is heavy down pour. They organized themselves and have been pursuing compensation from the company and Government for environmental damage to their area.
- **Water Authority** (Honiara): listed its most severe challenges as conflicts relating to water source agreements, as they have led to unnecessary water supply disruptions in the past, and make water delivery unreliable and hinder the application of sustainable tariffs. (from www.bjs.com.sb/energy.html). [In the Country Team meeting someone noted that JICA had funded water bores for the Water Authority to help them overcome issues with water sourcing and landowners. As a result of increased water supply from the bores, the Water Authority's demand for electricity has shot up – which is now causing rolling brownouts in Honiara. This story was told as an example of the lack of donor coordination – as the WB is working with the Electricity Authority.]
 - **Aluta Basin:** Similar to the Bina Harbour story, the Government has been trying to set up an Oil Palm Plantations on Malaita Island to absorb the labour force from Malaita who used to work on the Solomon Islands Plantations Ltd on the Guadalcanal Plains but were forced out during the ethnic tension and have not been allowed back in. Work commenced in 2003. The process of recording geneology to establish tribal groups, identifying boundaries of land owned by different tribal groups etc has been a challenge, but appears to be manageable. Issues of trust and the community's reluctance to commit to formal (government-controlled) recording and registration systems is also taking a lot of effort to overcome. Suggestions are that development might be able to proceed on the basis of recording rather than requiring alienation and registration in the name of a corporate legal entity or trust (as was done in the Guadalcanal Plains) (Sullivan 2007). On the other hand a case study written up for the *Making Land Work* (AusAID 2008b) study suggests that the majority of the Aluta Basin groups had agreed to formal registration and that the land was in the process of being acquired with immediate transfer back into the hands of tribal trusts (as was done in the Guadalcanal Plains prior to the set up of SIPL). Discussions in Honiara in December 2008 suggest that progress on this front may have slowed.
 - **Yamina** (Banika Island): Smallholder Cocoa on alienated land after logging
 - **Vangunu Island Palm Oil** (Marovo Lagoon, Western Province): Controversial oil palm plantation. Lands acquired by SIG in the 1960s. Foreign investor, Malaysian company Kumulan Emas Berhard, has planted 790 ha of palm since the mid 1990s. KEB is accused of having used the plantation as a front for logging activities both on Vangunu island and elsewhere and having neglected the oil palm business in favor of logging [see article in *Solomon Star* (10DEC08)].
 - **Fono Consitency** (Centrla Kwara'ae constituency represented by Hon. Fred Fono who is the deputy Prime Minister is the only constituency with a formal structure that allows for participation of various interest groups in the planning process and utilization of the constituency development fund. This system includes a consultative structure with local churches, youth groups, and councils of chiefs. There is a written

- MoU between the various groups involved and an annual report on progress is produced. The MP has been re-elected since 1992. The Ministry of Rural Development and Indigenous Business Affairs has a program to replicate this model across all national constituencies and has hired constituency officers to this end but progress has been difficult.
- **Sogavare Constituency:** Raised by the Ministry of Rural Development as another constituency with an improved system for using the constituency development fund. Hon. Manasseh Sogavare, former Prime Minister set up his constituency office in his constituency on Choiseul. There is no formal structure that allows participatory decision making but the discussions on the use of constituency funds take place at the village level and not Honiara.
 - **The Kaware Club:** A beach side dance club attracting late night revelers because, located on tribal land outside the city limits of Honiara, it is not subject to the 2am closing rule that prevails in town.
 - **Isabel Province Tripod Consultative Structures:** During the tensions Isabel province took the initiative to create a structure that allowed the Provincial Government, Diocese of Ysabel (Church), and Isabel Council of Chiefs to develop good governance structures and practices that link the provincial government level to the rural/informal structures. The structure through which greater accountability was pursued was the so-called “Tripod” - a consultative body established by leaders of Isabel Province to enable Provincial Government, Churches, and the Provincial Council of Chiefs to discuss and make decisions on issues relating to good and effective governance and service delivery to the people of the Province. The strategy in working with the three separate entities that function in Isabel was to improve transparency and accountability in each institution and facilitate a joint approach to addressing the many issues affecting people of the Province including effective and sustainable use of natural resources, customary land ownership, social order in communities, service delivery etc. Through funding support from UNDP the Isabel “Tripod” initiative organized a series of interventions around (1) Institutional strengthening and Capacity Development, (2) Improved transparency and accountability at all levels in the formal and informal institutions,(3)Access to justice (4) Private sector development and sustainable livelihood. The initiative had mixed results in the above areas but it demonstrated that constructive engagement between the formal and informal governance structures and system can lead to better results as it allows for wider participation and broad based discussions on major issues relating to development and service delivery. One notable success showed the Provincial Government becoming responsive to the needs and concerns of communities about destructive logging practices. This was demonstrated when the Provincial Executive decided in 2004 to put a moratorium on all logging activities. This decision was challenged in the high court by a logging company, but, backed by the tripod, the Provincial Government stood its ground and its decision was backed by the High Court [*Success Company Ltd v. Isabel Provincial Government*]
 - **SECA Accountability in Education Initiative:** Historically the Solomon Islands education sector has suffered as a result of weak delivery mechanisms and a decline in funding mainly due to inefficiency and mismanagement at all levels. The situation

was exacerbated by the conflicts of 1998-2000. By 2003 the resulting breakdown in law and order had driven the sector close total collapse. After restoration of law and order under the Regional Assistance Mission to Solomon Islands (RAMSI) the Government in partnership with NZAID and EU , put in place a major investment and reform programme to rebuild the education sector. This programme was frame and implemented through a sector wide approach framework involving substantial public sector investment. For example, the current level of funding for the Education sector reform and investment programme is about SBD16 million per annum.

The Solomon Islands Christian Association in partnership with Oxfam New Zealand established an initiative to empower communities to demand better primary education service delivery at the community level. In pursuit of this outcome a community based tracking system using community generated indicators was established to monitor all aspects of primary education delivery. Through the initiative, participating communities have been able to present to Provincial and National Education authorities empirical data and analysis on the imp of the education sector investment and reform programme at the community level (delivery point). One of the major focuses of the initiative has been trying to match expenditure at the national and Provincial level to the provision of primary school material, infrastructure development etc.

The initiative has helped participating communities to engage with education authorities with confidence. It has also provided a framework for constructive engagement and dialogue. The initiative has developed as a model for how communities can obtain better services, by better engaging with and demanding accountability from Provincial and National Governments.

The SICA commission is of the view that this approach could be adapted to engage government around issues of accountability in other sectors.

ANNEX D - LIST OF PEOPLE MET AND CONTACTS

| Government Officials | | | | |
|-----------------------------|----------------------|--|--|---------------------------------|
| Name | Position | Ministry | email | Phone /Fax |
| Shadrack Fanega | Permanent Secretary | Ministry of Finance | psfinance@pmc.gov.sb | 24102/21074/21058 Fax: 27855 |
| James Remobatu | Permanent Secretary | Ministry of Justice and Legal Affairs | psjustice@pmc.gov.sb | |
| Ruth Liloqula | Secretary to Cabinet | PM Office | pscabinet@pmc.gov.sb | 22202/21863 |
| Ethel Sigimanu | Permanent Secretary | Ministry of women and Youth | Ethel_sigimanu@yahoo.com.au | 28602/23547 |
| Fred Fakarii | Permanent secretary | Ministry of Home Affairs | psaffairs@pmc.gov.sb | |
| Joy Kere | Permanent Secretary | Ministry of Peace and Reconciliation | pspeace@pmc.gov.sb | 28616/23087 Fax:22216 |
| Ronald Unusu | Permananet Secretary | Ministry of Lands and Housing | pslands@pmc.gov.sb | 22750/26240 Fax:27298 |
| Leonard Maena | Chief Magistrate | Magistrates' Courts | lamina@gmail.com | |
| John Tuhaika | Permanent Secretary | Constitutional Reform Unit, PM Office. | | |
| Jeffrey Wikcham | Permanent Secretary | Ministry of Commerce, employment and labour | pscommerce@pmc.gov.sb | 28614/22856 Fax:25084 |
| Dr. Judson Leafasia | Permanent Secretary | Ministry of Rural Development and Indigenous affairs | | 25238/9 Fax: 22170 |

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|---|-------------------------------|---|--|-------|
| Joseph Walakulu | Local Courts Clerk | Magistrates Courts | | |
| John Keni | Political advisor | Office of the Prime Minister | jkeniapisia@pmc.gov.sb | 24361 |
| Frank Kabui | Chairman | Law Reform Commission | chairman@lrc.gov.sb | 38773 |
| Non Government Organisations and Community Based Organisations | | | | |
| Rex Tara | Acting Country Representative | Oxfam International, Solomon Islands Country office | rext@oxfam.org.au | 22004 |
| Paul Fia | Director | Solomon Islands Christian Association (SICA) Commission | sicacom@solomon.com.sb | 27663 |
| Eliam Tangirongo | Secretary | Guadalcanal Plains Resources Development Association | PO Box 308, Honiara | 88834 |
| Gideon Zoleveke | Secretary | Lauru Land Conference Investment | gzoleveke@cbl.com.sb | 26373 |
| Mapuru Tausinga | Team Leader | Development Services Exchange (DSE) | | |
| Andrew Radclyffe | Barrister and Solicitor | Andrew Radclyffe law firm | arad@solomon.com.sb | 24095 |

List of People Met and contacts

| AusAID/RAMSI | | | | |
|---------------------|-------------------------|----------------------|--------------|-------------------|
| Name | Position | Organisations | email | Phone /Fax |
| Paul Kelly | Development Coordinator | AusAID/RAMSI | | |
| Jane Christie | | RAMSI | | |
| Pamela | | RAMSI | | |

| | | | | |
|---------------|-------------------------|---------------------------|-----------------------------|-------|
| Kate Halliday | Senior Legal Officer | Law Reform Commission | katehalliday@lrc.gov.sb | |
| Jody Buchanan | | | | |
| Ed Cane | Solicitor | Public Solicitor's Office | edwardc@pso.gov.sb | |
| Kamal Amzi | Counselor | AusAID | Kamal.Azmi@dfat.gov.au | 21561 |
| Tony Prescott | Anti-corruption advisor | RAMSI | Tony.prescott@ausaid.gov.au | 24334 |

| Other Donor Organisations | | | | |
|---|--|--|--|-------|
| David Hamilton | Chief Technical Advisor | UNDP (Prov. Stengthening) | David.hamilton@undp.org | 22525 |
| Michael Ngalia | Peace and Conflict advisor | UNDP | Michael.ngalia@undp.org | 27746 |
| Peter Reddish | Programme Manager | EU programme support Unit, Ministry of Planning | | |
| | | | | |
| Additional People / Orgs of Interest (not met) | | | | |
| Donald Marahari | Local lawyer with an interest in public interest work on land issues | Explain Lawyers | | |
| | | SME Council | | |
| | | Live & Learn (NGO) | | |
| Leonard Maenu'u | Land Reform Unit | Ministry of Lands | | |
| Arnold Palmer | Chief Justice | | | |
| | | Natural Resources & Rights Coalition (NGO Network) | | |