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## Solomon Islands Case Study

EVALUATION OF AUSTRALIAN LAW AND JUSTICE ASSISTANCE



DECEMBER 2012



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**DECEMBER 2012**

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Published by the Australian Agency for International Development (AusAID), Canberra, December 2012.

**This document is online at** [www.ode.ausaid.gov.au](http://www.ode.ausaid.gov.au)

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**Cover photo:** Local women send a message to other Solomon Islanders about violence against women during a march marking White Ribbon Day 2009. Photo courtesy of Tom Perry

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## Acknowledgements

The evaluation team would like to thank the many organisations and individuals whose support and assistance was essential to the successful completion of this report. We offer our thanks to Solomon Islands Government officials, who made themselves available for consultations. We also thank the Regional Assistance Mission to Solomon Islands (RAMSI) and the AusAID Country Post for agreeing to participate in the review, and for their extensive support in the planning and delivery of this report. We offer our thanks to the various Australian Government stakeholders, in particular AusAID's Law and Justice Unit, the Australian Federal Police's International Deployment Group and the Attorney-General's Department, all of which gave generously of their time. Finally, we would like to thank Glyn Lewis from the Australian Federal Police who accompanied us to Solomon Islands, and to Samantha Keech-Marx from the Office for Development Effectiveness, without whose tireless support none of this would have been possible.

## Abbreviations

|         |   |
|---------|---|
| CO      | Community Officer   |
| CSSI    | Correctional Services Solomon Islands                           |
| DAC     | Development Assistance Committee                                |
| DPP     | Director of Public Prosecutions                                 |
| GDP     | Gross domestic product  |
| JSCC    | Justice Sector Consultative Committee                           |
| KPI     | Key performance indicator                                       |
| MoPNSCS | Ministry of Police, National Security and Correctional Services |
| NGO     | Non-government organisation                                     |
| ODE     | Office of Development Effectiveness                             |
| OECD    | Organisation for Economic Co-operation and Development          |
| PPF     | Participating Police Force                                      |
| PSO     | Public Solicitor's Office                                       |
| RAMSI   | Regional Assistance Mission to Solomon Islands                  |
| RSIPF   | Royal Solomon Islands Police Force                              |
| SIG     | Solomon Islands Government                                      |
| UN      | United Nations  |

## Executive summary

This case study of Australia's contribution to and support for law and justice in Solomon Islands has been undertaken as part of a thematic evaluation by the Office of Development Effectiveness (ODE) of law and justice assistance within the Australian aid program. The objective of the evaluation is to assess the relevance and effectiveness of current Australian Government strategies and approaches to law and justice assistance and to identify lessons to inform future programming choices. This case study is one of three being conducted as part of the evaluation, alongside Indonesia and Cambodia. Each case study examines the full range of Australian Official Development Assistance in the law and justice field to the country in question, including aid delivered by the Australian Agency for International Development (AusAID) and other Australian Government agencies.

The evaluation's key questions, which are addressed throughout this case study, are:

- Is Australia pursuing relevant and appropriate objectives in its law and justice assistance?
- Is Australia delivering law and justice assistance effectively?
- Is Australian law and justice assistance delivering value for money?
- What impact, intended and unintended, has resulted from different types of law and justice assistance?
- Is sustainability an appropriate objective for Australian law and justice assistance?
- How well does law and justice assistance support Australia's cross-cutting policy objectives?

The analyses are underpinned by data collected from various primary and secondary sources, including key informant interviews and focus group discussions during a two-week mission to Solomon Islands from 16 to 27 May 2011.

The evaluation is explicitly forward-looking but is grounded in a historical perspective of the evolution of the Solomon Islands context and Australia's engagement objectives. Australia's law and justice assistance, including Australia's substantive contribution to the Regional Assistance Mission to Solomon Islands (RAMSI) which arrived at the request of the Solomon Islands Government (SIG) in 2003, has been exceedingly successful in stabilising postconflict Solomon Islands and re-establishing rudimentary law and justice institutions and agencies, along with service delivery. However, this stabilisation model has not been effective at delivering the public goods and services of law and justice to the citizens of the country because it has not been adapted to fit the current (post-stabilisation) development context.

At the immediate heart of the challenge for Australia is the magnitude of the financial dependence of Solomon Islands law and justice institutions and agencies on Australia. It is not merely that virtually all of RAMSI's law and justice expenditures—and thus Solomon Islands law and justice development programs—are paid for by Australia. It is that approximately 60–



62 per cent of the entire operational and development budget of Solomon Islands law and justice institutions and agencies has been and is currently funded by Australia.

Interviews indicate broad concurrence among RAMSI personnel, AusAID staff, officials of the SIG and scholars that the current configuration of the country's law and justice institutions and agencies is unsustainable—across the dimensions by which sustainability can be measured. Consequently, this review recommends a rethink of the nature and role of Australia's support for law and justice development in Solomon Islands, as well as its contribution to RAMSI's law and justice programming—the Participating Police Force and the law and justice component's support activities. It is becoming increasingly evident that Australia's support to law and justice in Solomon Islands, as well as Australia's contribution to RAMSI, may in the future need to concentrate more explicitly on local law and justice service delivery to meet the needs of the Solomon Islands people. Thus, working with and strengthening *what exists* and *what is performing relatively well* may be the most relevant objective for RAMSI law and justice programming in the future.

Part of the difficulty has been that RAMSI's law and justice support has clearly emphasised organisational capacity building (also referred to as capacity development) as its primary approach to law and justice development. This has meant that Australia's support and its contribution to RAMSI have been primarily focused on supporting activities in and around the capital, Honiara. In addition, insufficient attention has been paid by SIG officials, Australian representatives, and/or RAMSI personnel to what kind of law and justice institutions were to be developed, even though it is axiomatic that development and/or institution building cannot truly take hold without clear and definitive objectives. In a postconflict environment this means, first and foremost, determining the nature and structure of a viable and sustainable state.

This is not to suggest that the organisational capacity-building model is the only approach RAMSI has chosen for its law and justice programming. Nor is it an argument against the organisational capacity-building approach per se, which was appropriate during RAMSI's initial stabilisation and institution-building phases. Rather, the evidence reviewed for this case study, such as the People's Surveys which measure public perceptions of service delivery, suggests that an over-reliance on a capacity-building approach may not produce optimal value for money if it does not lead to better outcomes for citizens at the local level. This is because the beneficiaries of a capacity-building model are the institutions of law and justice rather than the population. Therefore, Australia should consider integrating other models of development—service delivery, problem-solving and thematic—into an overall law and justice program.

At best, and under optimal circumstances, strengthened capacity is *necessary but not sufficient* for improving the provision of law and justice. While improved institutional capacities—better budgeting, planning, human resource management, capital infrastructure—may be essential precursors, there is no direct causal relationship between improved institutional/bureaucratic processes and better service delivery, which essentially is an activity between a service provider and a recipient(s). It is the activity of delivering a service itself that ought to be the



focus of development and not the institutional capacity, with the primary beneficiary being identifiable individuals, groups and communities—and in particular, women. A changed perspective is important because the drivers of change and the relationship between provider and recipient are mediated by a host of phenomena other than institutional capacity. These include leadership; socio-economic drivers of change; organisational behaviour; cultural values; gender relations; individual, group and elite self-interest (however the actors themselves define it); and social efficacy.

This report suggests that Australian support in Solomon Islands should more consistently approach law and justice development as a series of concrete challenges, whether in a problem-solving or service-delivery manner, as a way to ensure RAMSI's efforts and Australia's contribution are effective from the perspective of Solomon Islands society. Furthermore, Australia ought to rethink how it can better support improvements in gender equality and ending violence against women and begin to transform its assistance into a more thematic approach—one which extends beyond policing to include a broad range of local stakeholders.

Please note that the suggestions raised in the report and the following recommendations are offered cautiously and judiciously. They are based upon the team's overall law and justice experience and knowledge. However, they are not meant to substitute for the reasoned judgments of Australian, AusAID, and/or RAMSI officials. The team was on the ground in Solomon Islands for only two weeks. Therefore, the suggestions and recommendations should not be read as definitive, but rather as avenues that Australia might wish to explore in its future support for law and justice development in Solomon Islands and its contribution to RAMSI.

### **Recommendation 1**

That Australia engages strongly at the political level with the SIG on questions regarding what the nature and structure of the Solomon Islands 'state' will be as it evolves over the coming two generations. This implies that through its contribution to law and justice in Solomon Islands, including its contribution to RAMSI, Australia actively advocates and provides assistance for establishing law and justice institutions and agencies with appropriate structures and systems for that evolving state. Some initiatives may need to change the current political incentives that support the SIG's existing law and justice ministries and agencies, while continuing to adhere to and be aligned with existing SIG strategies and policies. As part of this shift, working with and strengthening *what exists* and *what is performing relatively well* may be the most relevant objectives for RAMSI law and justice programming.

### **Recommendation 2**

That Australia's support to law and justice in Solomon Islands and its contribution to RAMSI increasingly concentrate on local law and justice service delivery in order to meet the needs of citizens. This would require reapportioning a percentage of the resources (e.g. technical assistance, goods and services) currently directed to the SIG's institutions and agencies within Honiara, to service delivery in the provinces and at the local level. This is important given that

among the catalysts of conflict and 'the Tensions' were issues related to uneven development, land disputes and the centralisation of political power in Honiara.

### **Recommendation 3**

That a significantly increased percentage of Australia's support to law and justice in Solomon Islands and its contribution to RAMSI be used towards models of development other than the organisational capacity-building approach—namely service delivery, problem-solving and thematic alternatives. In addition, a thematic approach should be taken that gives priority to addressing gender inequality and gender-based violence.

### **Recommendation 4**

That Australia explores ways to engage more actively at the provincial and local levels, based on existing Solomon Islands cultural norms and traditions. In particular, Australia should conduct an in-depth exploration of how to enliven the role that Community Officers (COs) can play in providing law and justice services, in ways consistent with how local communities may wish to use their COs. This is not just a policing issue, but one for the entire spectrum of SIG law and justice agencies, as well as other SIG ministries and agencies, as there is a need to tie together national, provincial and local systems into broader systems of justice and governance. These systems will inevitably vary from region to region and island to island, sometimes focusing on a policing model for the COs, sometimes on a justice alternative and sometimes on a community-governance approach.

### **Recommendation 5**

That the monitoring and evaluation systems currently designed to evaluate RAMSI's performance, as well as Australia's other contributions to law and justice development, be strengthened to focus more on outcomes/results than outputs. This is essential to support the aforementioned recommendations.

### **Recommendation 6**

That Australia, not RAMSI, takes the lead negotiating position on transitional challenges to law and justice development in Solomon Islands. This seems appropriate, given the Australian Government's fiduciary responsibility to its taxpayers and the dependence of RAMSI's law and justice programming on Australian funding, and in turn SIG's law and justice dependence upon RAMSI funding.

# 1. Introduction

This case study of Australia's contribution to, and support for, law and justice in Solomon Islands has been undertaken as part of a thematic evaluation by the Office of Development Effectiveness (ODE) of law and justice assistance within the Australian aid program. The objective of the evaluation is to assess the relevance and effectiveness of current Australian Government strategies and approaches to law and justice assistance and identify lessons to inform future programming choices. The evaluation also aims to promote improved coherence among Australian Government agencies involved in law and justice support activities by contributing to a shared understanding of the nature and role of such assistance in the Australian aid program.

This case study is one of three being conducted as part of the evaluation, alongside Indonesia and Cambodia. Each case study examines the full range of Australian Official Development Assistance in the law and justice field to the country in question, including aid delivered by the Australian Agency for International Development (AusAID) and other Australian Government agencies. The evaluation's key questions, which are addressed throughout this case study, are:

- Is Australia pursuing relevant and appropriate objectives in its law and justice assistance?
- Is Australia delivering law and justice assistance effectively?
- Is Australian law and justice assistance delivering value for money?
- What impact, intended and unintended, has resulted from different types of law and justice assistance?
- Is sustainability an appropriate objective for Australian law and justice assistance?
- How well does law and justice assistance support Australia's cross-cutting policy objectives?

There is substantive correspondence between the law and justice strategies and policies of Australia and that of the Regional Assistance Mission to Solomon Islands (RAMSI)<sup>1</sup>. However, this review is not an evaluation of RAMSI per se. Rather, this case study examines Australia's contribution to RAMSI's law and justice programming, as well as Australia's law and justice assistance in Solomon Islands more broadly, and how that overall support reflects Australia's law and justice strategies and approaches.

For the purposes of this report, 'RAMSI' refers to the entire spectrum of RAMSI's law and justice activities, including the Participating Police Force (PPF) and the development program. 'Law and justice' refers to the entire spectrum of services and service providers who deliver the public goods and services of law and justice, including civil, administrative, commercial, family and criminal justice service providers. 'Law and justice programming', 'RAMSI law and justice development', 'Australian law and justice assistance', 'Australian law and justice

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<sup>1</sup> [www.ramsi.org](http://www.ramsi.org)

development', and all such similar terms also refer to the entire spectrum of actors, as well as all RAMSI components—PPF and the development program—that directly support the development of law and justice in Solomon Islands. When RAMSI's specific organisational units are referred to, they will be appropriately identified, respectively, as the PPF and the law and justice component.

The evaluation team for the Solomon Islands case study consisted of Marcus Cox, Emele Duituturaga, and Eric Scheye,<sup>2</sup> with support from Glyn Lewis of the Australian Federal Police. The field research was carried out during a two-week mission to Solomon Islands from 16 to 27 May 2011.<sup>3</sup> It included key informant interviews with Solomon Islands Government (SIG) officials, RAMSI personnel, AusAID staff, other donors and civil society representatives. Team members conducted a provincial visit to the island of Malaita, visiting the recently constructed Auki courthouse and prison and the officials deployed there. A planned second provincial visit was cancelled due to aviation difficulties. A focus group discussion was held with a small group of women and civil society representatives. The case study also includes a review of documentation and results data produced by RAMSI and AusAID, along with analyses written by scholars.

This case study is explicitly written as a forward-looking review to highlight directions in which Australia's support for law and justice programming in Solomon Islands—as well as its contribution to RAMSI—may wish to move in the coming years. This is primarily a political question and not a narrowly defined law and justice development one, for at least three reasons. First, as all practitioners and scholars acknowledge, law and justice development is largely a political endeavour rather than a technical one. Second, the nature and structure of the Solomon Islands state, and state–society relations, remain largely open questions—ones that have not been fully resolved within Solomon Islands. Third, and at the immediate heart of the challenge for Australia, is the magnitude of the financial dependence of Solomon Islands law and justice institutions and agencies on Australia. It is not merely that virtually all of RAMSI's law and justice expenditures—and thus Solomon Islands law and justice development programs—are paid for by Australia. It is that approximately 60–62 per cent of the entire operational and development budget of Solomon Islands law and justice institutions and agencies has been and is currently funded by Australia.<sup>4</sup> Consequently, Australia's decisions have profound ramifications and are a weighty political challenge.

This case study also outlines potential directions for future Australian support for law and justice programming in Solomon Islands for a substantive reason. Australia's contribution to

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<sup>2</sup> Special thanks are due to Samantha Keech-Marx, who accompanied the team on its Solomon Islands visit and managed the process.

<sup>3</sup> Without doubt, Australia's contribution to and support for law and justice in Solomon Islands has continued to evolve since the team was in the field. This report, however, is based upon the situation as it existed when the research was undertaken. Attempts will be made to highlight changes in activities and policies that have occurred since, but those attempts are not meant to be comprehensive. For example, though the final draft of the RAMSI law and justice program design document was written in January 2011, the explicit fleshing out of its activities and their implementation began only after the team's field visit.

<sup>4</sup> It should be recognised, however, that through RAMSI, Australia may be funding activities that the SIG would not otherwise undertake if there were little to no external support.

RAMSI's law and justice programming, as well as Australia's overall law and justice assistance, has been exceedingly successful in stabilising postconflict Solomon Islands and re-establishing rudimentary law and justice institutions and agencies, along with service delivery. However, this stabilisation model has not been effective at delivering the public goods of law and justice to the citizens of the country because it has not been adapted to fit the subsequent development context.

There have been many notable and hard-won achievements and successes, difficult to attain in light of Solomon Islands' numerous post-colonial challenges and legacy issues. Nevertheless, a senior AusAID official observed that the law and justice institutions of Solomon Islands are "hollow". Another claimed, referring specifically to the Royal Solomon Islands Police Force (RSIPF), that "policing... is locked in an endless feedback loop (or policy-free zone)... [T]he RSIPF is continually assigned additional functions without any acknowledgement of the resources required (the budget has declined in recent years) or prioritisation". Echoing these sentiments, the RAMSI Annual Performance Report 2010 notes that, with respect to justice development, RAMSI is "unable to report a coherent story about progress" and that its most recent development programming "has been unable to realise sustainable gains".<sup>5</sup> A similar story holds true for police development.

Furthermore, interviews indicate broad concurrence among RAMSI personnel, AusAID staff, SIG officials, and scholars that the current configuration of the country's law and justice institutions and agencies is unsustainable without an open-ended Australian commitment of assistance. Consequently, this review recommends a rethink of the nature and role of Australia's support for law and justice development in Solomon Islands, as well as its contribution to RAMSI's law and justice programming—the PPF and the law and justice component's support activities. It is becoming increasingly evident that Australia's support to law and justice in Solomon Islands, as well as Australia's contribution to RAMSI, may in the future need to concentrate more explicitly on local law and justice service delivery to meet the needs of the Solomon Islands people. Thus, working with and strengthening *what exists* and *what is performing relatively well* may be the most relevant objective for RAMSI law and justice programming in the future.

A word of caution regarding this report's forward-looking suggestions: while the potential directions suggested by this report are based upon the team's overall law and justice experience and knowledge, they are offered cautiously and judiciously. They are not meant to substitute for the reasoned judgments of Australian, AusAID and/or RAMSI officials, for the team was on the ground in Solomon Islands for only two weeks. This report's suggestions, therefore, should not be read as definitive, but rather as avenues that Australia might wish to explore in its future support for law and justice development in Solomon Islands and its contribution to RAMSI.

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<sup>5</sup> RAMSI Annual Performance Report 2010, pp. 5, i.

This report is divided into six sections. Section 2 examines the overall context within which Australia's contribution to RAMSI and its support for law and justice development in Solomon Islands has taken place. It summarises the law and justice support activities undertaken by RAMSI and the phases of postconflict development through which assistance progressed; it outlines RAMSI's numerous impressive stabilisation and institution-building achievements to date; and it explores RAMSI's organisational capacity-building approach ('capacity building' is also referred to in this report as 'capacity development') to law and justice support. This report's contention is that the organisational capacity-building approach to development, which concentrates power at the governmental centre rather than amongst the people, became RAMSI's primary model of law and justice assistance (for the PPF and the law and justice components).

This report does not argue that the organisational capacity-building approach was RAMSI's exclusive model, but merely that it was RAMSI's principal one. As such, the organisational capacity-building approach plays as much of a role in the 'context' of Solomon Islands as the socio-economic situation in the country. This section discusses some of the conceptual advantages and disadvantages of the organisational capacity-building model. For reference, Annex A provides an analysis of the four basic approaches to development—organisational capacity building, service delivery, problem-solving and thematic.

Section 3 reviews the objectives of RAMSI's law and justice programming, as well as how those objectives have evolved, in order to delve into their implications for Australia and SIG law and justice strategies and policies. It then reviews the relevance and coherence of RAMSI's and Australia's contribution to law and justice assistance in Solomon Islands. The applicability and pertinence of the objectives themselves are also examined, with particular respect to their sustainability.

Section 4 assesses the effectiveness of the assistance RAMSI has provided to Solomon Islands. The review focuses on recent reports, their findings and their implications for future programming options. While this report is not an impact assessment, this section provides a broad analysis and discussion of law and justice outcomes and results. Importantly, this section discusses how alternative models of law and justice development—and their theories of change—may be more effective and therefore provide greater value for money in producing tangible outcomes and results in Solomon Islands.

Section 5 looks at gender (specifically, gender-based violence) as a cross-cutting policy objective. This section suggests that gender-based violence and particularly domestic violence are potential priority themes around which RAMSI and Australian support for law and justice programming can revolve, when Australia rethinks its development assistance to Solomon Islands.

Section 6 summarises the findings and suggests some additional ideas, outlining potential avenues that Australia may wish to explore in regard to future Australian support for law and justice development in Solomon Islands.

Please note that rather than devote separate sections of the case study to monitoring and evaluation, value for money and whole-of-government programming, this report touches upon these issues throughout the case study in the belief that they are not discrete, stand-alone questions, but rather they are threads of good practice that ought to be woven into all aspects of law and justice development. While gender is the focus of Section 5, it is also discussed throughout the report for this same reason. Finally, during the team's two-week visit to Solomon Islands, respondents—SIG officials, non-government organisation (NGO) representatives, RAMSI personnel and AusAID staff—did not raise either HIV/AIDS or corruption as an issue.<sup>6</sup> There was not sufficient time to delve deeply into these issues to discover why they were not raised during interviews. This does not imply that neither is an important axis for development. Nor does it suggest that Australia's contribution to RAMSI and Australian support to Solomon Islands does not incorporate them into their programming. In fact, anti-corruption programming is a cross-cutting theme and an important element of RAMSI's support activities.<sup>7</sup> Nevertheless, this report does not address these issues.

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<sup>6</sup> While HIV/AIDS has not been incorporated into RAMSI's mandate, it is integral to AusAID's strategies and policies.

<sup>7</sup> For example, in late 2009, a feasibility study for the establishment of an Independent Commission Against Corruption (ICAC) in Solomon Islands was completed, a code of conduct for public servants was published, and the *Customs Valuation and Customs Offences Act* was passed, which should not only improve border controls and the collection of custom duties, but reduce corrupt custom practices. Furthermore, the Auditor General's Office, which functions as an accountability and, hence, anti-corruption institution, has been significantly strengthened, and in 2009 the first audits of provincial governments were conducted and completed.



## 2. Country and programmatic context

### 2.1 Solomon Islands

Spread over 992 islands, the territory of Solomon Islands encompasses more than 28 450 square kilometres. The population is growing 2.3–2.5 per cent per annum.<sup>8</sup> Approximately 40 per cent of the population is aged 14 or younger, a percentage that is expected to increase over the coming decade. While 85 per cent of the country's population of over 525 000 is rural, the population density of the capital, Honiara, increased “by more than 800 people per square kilometre between 1999 and 2009”. This rapid growth suggests an increasingly important urban challenge, alongside the current question of how to provide public goods and services to a predominantly rural population.<sup>9</sup> The balance of these two claims on government services is a thorny issue for the SIG to tackle. It also has profound implications for discussions of state–society relations, as well as the nature and structure of the Solomon Islands ‘state’.

Taking into account population growth and the effects of various economic shocks—six years of civil strife, collapse of the Asian economies in 1997–98, and the current economic malaise—the country's gross domestic product (GDP) per capita has fallen on average by 1.3 per cent a year from 1998 to 2008.<sup>10</sup> As a result, incomes today still remain below 1998 levels, although there has been strong economic growth since 2003, with the exception of 2009.<sup>11</sup> It is not surprising, therefore, that Solomon Islands is ranked the second lowest among all Pacific nations in the United Nations Human Development Index.<sup>12</sup> The Asian Development Bank states that Solomon Islands is the least developed Pacific country member, with its social and health indicators also amongst the lowest in the region.<sup>13</sup> Furthermore, it is estimated that “most of the 10 000 or so young Solomon Islanders who enter the workforce each year won't be able to find employment”.<sup>14</sup> In an interview with a young man on Malaita, the starkness of

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<sup>8</sup> World Bank, *Solomon Islands growth prospects: background materials and analysis*, October 2010, p. 32.

<sup>9</sup> Haque, Tobias, *Evaluation of Community Officers Program: economic and financial assistance*, World Bank, October 2011, Introduction. See also *CIA world factbook 2011*, [www.cia.gov/library/publications/the-world-factbook/geos/bp.html](http://www.cia.gov/library/publications/the-world-factbook/geos/bp.html).

<sup>10</sup> Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 7. More narrowly, during the six years of the Tensions, 1998–2003, it is reported that per capita GDP had been halved: Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010. This decade-long decline lies atop a catastrophic one-year 1997–98 drop in GDP, which, triggered by the collapse of Asian economies, has been estimated by the Asian Development Bank to have been between 15 and 20 per cent: *Impact of the Asian financial crisis on PMDC [Pacific Member Developing Country] economies*, Asian Development Bank, Manila, 1998. A decade earlier, in 1986, Cyclone Namu destroyed a significant proportion of the country's rice and palm oil plantations, which contributed to the establishment of the Solomon Islands timber boom: see Aqorau, Transform, ‘Crisis in Solomon Islands: foraging for new directions’, in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008.

<sup>11</sup> Haque, Tobias, *Evaluation of Community Officers Program: economic and financial assistance*, World Bank, October 2011, Introduction.

<sup>12</sup> Asian Development Bank and Solomon Islands, Fact sheet, 2008.

<sup>13</sup> Solomon Islands – European Community, *Country strategy paper and national indicative program for the period 2008–2013*.

<sup>14</sup> Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 3.

these numbers was driven home. When asked whether employment opportunities increased with completion of a high school education, he swiftly and definitely said “no”. The situation is most likely much worse for women than it is for men, given the existing gender discrepancies in years of secondary education undertaken and income generated for paid work.<sup>15</sup>

In the 1980s, fisheries provided Solomon Islands with its principal export product. Since then, timber has become dominant. Logging revenues currently contribute approximately 70 per cent of the country’s export income, providing over 15 per cent of SIG’s revenue.<sup>16</sup> The forests, however, are not being harvested in a sustainable manner and are expected to dwindle as a source of economic activity and employment. Despite notable improvements in assessing the value of exported timber, tax compliance and revenue collection—for which RAMSI and others have provided substantial support—there is a low contribution to government revenues from timber. It is alleged that from 2005 to 2009, only A\$5 million in tax revenues was collected by the SIG from international logging companies.<sup>17</sup> Mining ventures may be able to compensate for a percentage of the decline in timber production, but lead times for the exploitation of mineral resources are long. Also, given that over 85 per cent of the nation’s land is covered by traditional land tenure, legal access to the minerals may be difficult to obtain.<sup>18</sup> Taken together, this presents a deeply troubling governance issue and one that has profound implications for donor-supported law and justice development.<sup>19</sup>

Among scholars, these facts suggest “SIG revenue[s] will continue to be insufficient to meet the costs of governing, and significant donor support will, therefore, be required for the foreseeable future”.<sup>20</sup> According to the World Bank, even though SIG revenues may increase in absolute value, they are expected to decline as a proportion of GDP,<sup>21</sup> suggesting the need to support the SIG to increase its revenue base and the need for an enduring and open-ended donor commitment to the country. That SIG distributions “as a share of public expenditure” to the delivery of justice services have “remained fairly flat”, and for policing to have decreased

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<sup>15</sup> See *People’s Survey 2010*, Australian National University, Canberra, 2011, pp. 37, 66.

<sup>16</sup> Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 8.

<sup>17</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 57. It is alleged that SIG has lost “hundreds of millions in potential revenue due to tax exemptions and poor monitoring and surveillance”, with the main beneficiary being Malaysian timber companies: Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 8.

<sup>18</sup> In an interview with World Bank staff, it was noted that high levels of mutual misunderstanding permeate the relationships between and among the relevant actors—government, customary landowners and industry—involved in the potential extraction and use of the country’s mineral wealth.

<sup>19</sup> For an in-depth analysis of corruption and loss of public revenues by successive SIG administrations, which includes fisheries, see Moore, Clive, ‘No more walkabout long Chinatown: Asian involvement in the economic and political processes’, in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008. Moore cites the findings of a 2005 SIG Audit Report that SIG “procedures were blatantly breached, records were poorly maintained and there was suspicion that some records had been deliberately destroyed to cover fraudulent or corrupt activities”: *ibid.*, p. 76.

<sup>20</sup> Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 3.

<sup>21</sup> Haque, Tobias, *Evaluation of Community Officers Program: economic and financial assistance*, World Bank, October 2011.

over the past years,<sup>22</sup> raises additional governance and political concerns. It is in light of these concerns that the World Bank has concluded that international donors will need to support Solomon Islands with “a credible security guarantee” for the foreseeable future.<sup>23</sup> This conclusion has profound implications for Australia and its possible future contributions to RAMSI, as will be discussed below. These implications are all the more telling considering that Australia’s contribution to RAMSI’s total budget is estimated to be upwards of 90–95 per cent and, as observed by a RAMSI law and justice official, Australia underwrites virtually the entire RAMSI law and justice program budget.

Solomon Islands was made a British protectorate in 1893, gaining independence only in 1978. The presence and reach of the SIG into the rural areas of the country has always been circumscribed. Its delivery of public goods and services has been and continues to be limited mainly to Honiara and a couple of other provincial centres, not significantly affecting the lives of most of the country’s population, who are dependent on subsistence agriculture and cash cropping. Nevertheless, in the 35 years since independence, it would appear that there has been a steady erosion of the public infrastructure developed during the colonial period, and a concomitant deterioration in the delivery of public goods and services by the SIG. For example, after independence, local officers responsible to the provincial and central governments replaced the colonial system of government agents—district officers, headmen and *ples men*. Since then, “because of the weakness of support mechanisms, many of these officers no longer performed their duties effectively or efficiently. Many substations were closed, resulting in a decline in the visibility of government and its impact” on rural populations.<sup>24</sup> One of the results has been the further weakening of and deterioration in governance linkages between the national, provincial and local levels.<sup>25</sup>

As far as the institutions and systems of law and justice are concerned, the situation is little different, not only with respect to the dearth of the delivery of public goods and services by the SIG, but with regard to a progressive deterioration of what existed prior to and at independence.<sup>26</sup> For example, in 1970, approximately 50 local courts existed and functioned throughout the country, whose principal responsibility was to adjudicate land cases according

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<sup>22</sup> Ibid.

<sup>23</sup> World Bank, *Solomon Islands sources of growth: summary of findings*, p. 8. See also Dinnen, Sinclair, et al., *Conflict in Melanesia: themes and lessons*, World Development Report 2011 background paper, 2010, p. 25, where it is argued that unless Solomon Islands is “able to ‘beat the odds’ on a sustained basis, the form, size and scope of state responsibilities will likely continue to be fiscally unsustainable”.

<sup>24</sup> Kabutaulaka, Tarcisius, ‘Westminster meets Solomons in the Honiara riots’, in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, p. 102.

<sup>25</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 139.

<sup>26</sup> One of the hallmarks of the Solomon Islands legal system was its pluralism, cascading down from the High Court to the local chief, and effectively taking into account the Royal Solomon Islands Police Force (RSIPF) and local policing as well. Through the provincial premiers, the Chief Justice was ultimately responsible for the appointment of local court personnel. Furthermore, the local courts gained jurisdiction over land disputes only after “the parties had initially referred the matter to the chiefs, where ‘traditional means’ of dealing with the dispute had been exhausted, and where an acceptable chiefly decision was not forthcoming”: Evans, Daniel, et al., *The Hybrid Courts of Melanesia: a comparative analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands*, World Bank Justice and Development Working Paper Series, 13, 2011, p. 13.

to 'customary' law, as well as handle minor criminal matters.<sup>27</sup> The local chief was the court's president and he was assisted by subordinates, "including an 'assistant district headman', who was similar to a village constable".<sup>28</sup> Often, the village constable was a member in good standing of the local court. Obligated to meet, at least once a month, the court had a clerk to record its sessions, indicating the extent of the system's architecture and suggesting that this 'customary' component of this system for the adjudication of land disputes may best be described as being grounded in common law.<sup>29</sup> By 2008, while 33 local courts still existed by law, only 18 were operational and, according to interviewees, the actual number of operating local courts may have been less than five. The same dwindling numbers apply to local court clerks, with fewer than eight still employed so that access to the courts is no longer particularly 'local'. Furthermore, though the "Constitution expressly allows for parliament to make provision for the application of customary law in the formal system, such legislation has never been enacted".<sup>30</sup>

Seen from a governance perspective, therefore, 'the Tensions'—a period from 1998 to 2003 during which the SIG effectively collapsed—can be understood in at least two ways. For instance, it can represent the last phase of the steady decay of governance and the SIG since the end of the colonial period. It can also be understood as the end of a process of a "state that had never [been] consolidated".<sup>31</sup> The choice of interpretation has profound consequences for the relevance and effectiveness of the law and justice development assistance that is provided. The former suggests that Solomon Islands is largely a 'failed' state and therefore rebuilding it—beginning with the ministries and agencies of the centralised state—is a viable and effective option. The latter intimates that the nature and structure of the post-colonial state itself has been and remains questionable. Consequently, development assistance needs to come to terms with the political implications of an unsettled, embryonic situation. If, as is likely, both interpretations have validity, the challenge is how to balance and proportion donor assistance to a range of law and justice actors as the nature and structure of the Solomon Islands state evolves.

The structure of politics and culture in which domestic policy decisions have been made over 35 years of independence has further aggravated the widening gap between Solomon Islands society and the political establishment (politicians and bureaucrats). First, there are no women parliamentarians, which raises troubling questions with respect to how representative the parliament is of the country's population. The lack of women parliamentarians may also be associated with why women are more likely than men to say they have 'no' trust in the

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<sup>27</sup> It must be acknowledged that these courts experienced difficulties in enforcing their decisions, *ibid.*, p. 10.

<sup>28</sup> *Ibid.*

<sup>29</sup> The hallmarks of a common law system include a system in which (1) case precedence dominates, (2) the law and legal decisions grow by accretion through precedence, and (3) the law may remain largely unwritten given the dominance of case precedence for future jurisprudence and court decisions.

<sup>30</sup> *Ibid.*

<sup>31</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 1.

parliament,<sup>32</sup> a phenomenon that appears to have rippling effects across a range of law and justice issues. For example, significantly higher percentages of women compared to men have not heard of the Leadership Code Commission or Auditor General's Office; women are much less likely than men to be satisfied with the results of dispute resolution processes, however achieved; and they are much more fearful of the departure of RAMSI's military capabilities.<sup>33</sup>

Second, Solomon Islands adopted a Westminster system of electoral politics, but its political parties "tend to be weak and loosely organised".<sup>34</sup> Furthermore, the elections have not established any majority parties, meaning that governing coalitions are cobbled together from groups of small parties after an election, which undermines the efficacy of a Westminster system. Finally, the first-past-the-post system has consistently resulted in democratically elected representatives whose electoral base is significantly less than 50 per cent of their district's electorate. In the 2006 elections, for example, only two representatives obtained more than 50 per cent of their electorate's votes.<sup>35</sup> This pattern of electoral instability has not appreciably changed in the past five years. In the 2010 elections more than 50 per cent of the representatives were not returned to office, suggesting a persistently high degree of electoral and political volatility. Consequently, the governing coalitions are inherently insecure and at constant risk of defection of its members. Since political parties are unable to instil discipline, representatives often advocate "no particular political platform or policies", and need to appeal only to narrow segments of their constituencies.<sup>36</sup> Coupled with the patronage and rent-seeking system that decides the positions of Prime Minister and Cabinet, the possibility of stable coalitions able to pursue a publicly known policy platform is minimal.<sup>37</sup>

One of the consequences of the lack of governance capacity combined with the nature of the Solomon Islands political system has been "the resilience of norms of Solomon Islands 'political culture' ... that leave national politics available to the highest bidder, and therefore vulnerable to the kinds of crises and breakdowns in the confidence in institutions that we saw between 1998 and 2006".<sup>38</sup> It is no surprise, therefore, that the most difficult political issues, such as land tenure reform, have been left largely unaddressed. It is equally no surprise that

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<sup>32</sup> *People's Survey 2010*, Australian National University, Canberra, 2011, p. 21. Twenty-one per cent of women have 'no' trust in the parliament.

<sup>33</sup> *Ibid.*, pp. 117, 119, 143, 101.

<sup>34</sup> *Ibid.*, p. 104.

<sup>35</sup> See Aqorau, Transform, 'Crisis in Solomon Islands: foraging for new directions', in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, p. 263.

<sup>36</sup> *Ibid.*, p. 262.

<sup>37</sup> See Kabutaulaka, Tarcisius, 'Westminster meets Solomons in the Honiara riots', in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, pp. 104–105.

<sup>38</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 5. According to another scholar, "In the absence of strong party affiliation or significant policy differences, loose blocs of members coalesce around individual leaders ... The common goal among new members is to secure a place on the government benches and, preferably, a ministerial portfolio ... As several elections have demonstrated, the ease with which parliamentarians can change allegiances has meant that prime ministers are particularly vulnerable to outside influences on their colleagues, including overt bribery. Financial and other inducements provided by Asian business interests are believed to have fuelled the formation of new governments in recent years": Dinnen, Sinclair, 'Dilemmas of intervention and the building of state and nation', in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, p. 18.

the Commission of Inquiry into the April 2006 Civil Unrest in Honiara strongly advocated for an overhaul of the country's political system, including the abolition of secret balloting for the Prime Minister, the invigoration of political party discipline, and an enforceable separation of the ties between big business and their funding of politicians.

The last element of the overall Solomon Islands context into which RAMSI is situated is the Tensions period itself (1998–2003), a time of political and civil turmoil during which the SIG ceased to function effectively, inter-communal violence claimed many lives, and the RSIPF, choosing sides in the strife, became an unaccountable armed group. There are various, but not necessarily mutually exclusive, socio-economic and political explanations for the outbreak of the Tensions.<sup>39</sup> Among the proximate causes is the shift in population after World War II when Malaitan economic migration resulted in their increasing economic and political ascendancy in Honiara which, in turn, engendered resentment within the Guadalcanal population. An indication of the extent of this dominance is that during the Tensions and at the time of the June 2000 coup, approximately “75 per cent of the police were Malaitan and only 3 per cent were from Guadalcanal”.<sup>40</sup> It must be remembered, however, that the Tensions' initial sparks were in rural Guadalcanal and not in Honiara. Furthermore, it has been argued that the catalyst of conflict was “related to issues of uneven development and relative deprivation, resentment at the centralization of political power in Honiara, issues of respect for local culture and longstanding land disputes”.<sup>41</sup>

These are fundamental state–society issues, and they affect the nature and structure of the Solomon Islands state. Consequently, they have profound repercussions and implications for law and justice development. During interviews, one respondent observed that these grievances had been legitimately and publicly aired prior to the Tensions, and that the opportunity existed for the SIG to have appropriately addressed and perhaps resolved them.<sup>42</sup> If that had occurred, violent conflict might have been prevented or at least mitigated. Unfortunately, according to this observer, the structure of politics in Solomon Islands, along with a leadership vacuum, foreclosed that possibility.

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<sup>39</sup> According to one scholar, “the best explanation for the timing of the violent conflict and political turmoil that erupted in Solomon Islands in late 1998 lies in the relationship between conflict and boom-and-bust economic cycles. The structural causes of the conflict, such as uneven development, competing forms of political authority and the ‘youth bulge’, have been present in Solomon Islands for decades”: Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 13. See also, Moore, Clive, *Happy isles in crisis: the historical causes for a failing state in Solomon Islands, 1998–2004*, Asia Pacific Press, Canberra, 2004.

<sup>40</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 26.

<sup>41</sup> Dinnen, Sinclair, et al., *Conflict in Melanesia: themes and lessons*, World Development Report 2011 background paper, 2010, p. 11. Dinnen et al., report that a Guadalcanal respondent told one researcher that the Weather Coast, where the Tensions began, “is just on the other side of (the island of Guadalcanal) where the palm oil plantation, the gold mine, and Honiara is; yet they are a forgotten people in terms of infrastructure that will enable them to access the benefits from development”. Dinnen et al., go on to observe that “Festering resentment about the uneven outcomes of change is widespread” (p. 17).

<sup>42</sup> Rural Guadalcanal grievances were enunciated in early 1999 in a petition to the government by the Guadalcanal Revolutionary Army and the Guadalcanal Provincial Assembly titled *Demands by the bona fide and Indigenous people of Guadalcanal*.



## 2.2 RAMSI and Australia

### RAMSI's three phases—a historical synopsis

Regional neighbours, including Australia, were requested to intervene in Solomon Islands on a number of different occasions, the last of which was on 22 April 2003. On 30 June that year, unanimous approval for RAMSI by the Pacific Islands Forum leaders' meeting was given. The RAMSI Treaty—agreement between the SIG and the other 15 members of the Pacific Islands Forum—established the legal framework for the deployment of RAMSI. The *Solomon Islands Facilitation of International Assistance Act (No. 1 of 2003)*,<sup>43</sup> in turn, gave effect to the RAMSI Treaty in Solomon Islands domestic law. On 24 July 2003, the international intervention and RAMSI's initial deployment took place.<sup>44</sup>

RAMSI's mandate, as stated on its website<sup>45</sup>, is to:

- ensure the safety and security of Solomon Islands
- repair and reform the machinery of government, improve government accountability and improve the delivery of services in urban and provincial areas
- improve economic governance and strengthen the government's financial systems
- help rebuild the economy and encourage sustainable broad-based growth
- build strong and peaceful communities.

Effectively, RAMSI has a dual mandate—to ensure safety and security *and* to support development—a duality that is particularly acute for the PPF.<sup>46</sup>

To fulfil its mandate, RAMSI is divided into three components: (1) the PPF, (2) the Combined Task Force and (3) the development program. In turn, the development component has adopted a three-pillar postconflict approach:

- law and justice<sup>47</sup>
- economic governance
- machinery of government.

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<sup>43</sup> National Parliament of the Royal Solomon Islands, *Solomon Islands Facilitation of International Assistance Act (No. 1 of 2003)*, 21 July 2003.

<sup>44</sup> In addition to Australia, the other participating countries are Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Tonga, Tuvalu and Vanuatu.

<sup>45</sup> <http://www.ramsi.org/about/what-is-ramsi.html>

<sup>46</sup> According to a number of RAMSI officials, this joint mandate at times serves to reinforce this policy-free loop within the RSIPF, with RAMSI continually having to shift the focus towards security rather than longer term institution building (aimed at some yet undefined model). From this perspective, it may be appropriate for Australia and RAMSI to insist upon a separation of the mandates.

<sup>47</sup> To give an idea of the range of support activities that RAMSI has undertaken, the law and justice component, for example, at one point in time over the last eight years has provided assistance to the Ministry of Justice and Legal Affairs, National Judiciary (including magistrates' courts), Director of Public Prosecutions, Public Solicitor's Office, Attorney General's Chambers, Law Reform Commission, Registrar General's Office, Corrections Service of Solomon Islands, and the Ministry of Police, National Security and Corrections. The component has also provided extensive support so that the Tension Trials, and other high profile criminal cases, can proceed.



Since July 2003, Australia has provided civilian, police and military personnel to serve with RAMSI. The head of RAMSI, the Special Coordinator, has been and continues to be an Australian. Similarly, the current head of the law and justice component is an AusAID staff member, and his predecessors have been Australians. Moreover, all Commanders of the PPF have been serving Australian Federal Police officers. RAMSI has also been massively indebted to Australia for financial support, with its contribution estimated to be upwards of 90–95 per cent of the overall cost and almost the entire budget for its law and justice programming. RAMSI's financial dependence on Australia applies to all RAMSI operations from its inception until today.

For analytical purposes, the eight years of RAMSI's existence can be divided into three phases:

1. stabilisation, 2003–2004
2. initial development period/institution building, 2004–2009
3. development period, 2009–present.

In the first phase, RAMSI's top priority was stabilisation, with the restoration of law and order being imperative. With a combined initial strength of more than 2000 personnel and under Australian command, the Combined Task Force and the PPF patrolled the Solomon Islands, detained suspects who had perpetuated the violence during the Tensions,<sup>48</sup> and effectively disarmed the country, collecting over 4000 firearms.<sup>49</sup>

To jumpstart the SIG's law and justice institutions, RAMSI technical advisers assumed line functions as a gap-filling measure. Up to 60 advisers, for instance, were inserted into the Correctional Services Solomon Islands (CSSI). Foreign lawyers were also brought in for the Tension Trials and to supplement the work of the Public Solicitor's Office (PSO), Attorney General and Office of the Director of Public Prosecutions (DPP). These measures were essential to stabilise the country, and therefore represent the foundations for development rather than development itself. During this period, the insertion of expatriates into SIG line functions to perform crucial public services was a 'gap-filling' activity—one that does not directly address development concerns. While it is true that during this period expatriates were delivering public goods and services and the citizens of Solomon Islands were benefiting enormously, gap filling is not a 'service delivery' type of development assistance. The purpose of expatriates assuming line functions, as it was in Kosovo and East Timor, was to stabilise the country and ensure some level of law and justice provision. The purpose was not 'to develop', for example, the skills of Solomon Islands citizens working within law and justice institutions, agencies and other service providers. Consequently, gap filling may be best understood as a stabilisation endeavour—often an extremely vital one. Nevertheless and without question, RAMSI support was extremely successful in this first postconflict phase. Solomon Islands was stabilised, law

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<sup>48</sup> In a relatively short time, approximately 25 per cent of the RSIPF were detained and removed from service, thus diminishing one of the principal sources of insecurity in Solomon Islands.

<sup>49</sup> The RSIPF remains disarmed, even to the extent that they have few, if any, non-lethal, defensive tools at their disposal.

and order was restored, and the SIG was re-established and brought to a minimal level of functionality.

Grounded in these real achievements, the second phase of postconflict support began, one that was intended to initiate the active development of SIG law and justice institutions. Jointly written by the SIG and RAMSI, and approved by the Solomon Islands Cabinet, the SIG–RAMSI Law and Justice Sector Strategic Framework 2005–2010 laid out RAMSI’s new law and justice objectives. Moving away from its initial and pivotal gap-filling role the challenge for both SIG and RAMSI:

*is to reach clarity and consensus on what capacity is to be built through RAMSI and over what period of time, and then to set and monitor realistic capacity building objectives and targets. The SIG also needs to take an active leadership role, in both decision-making and progress monitoring, if it wishes to ensure RAMSI is meeting its priority needs and achieving sustainable results.*<sup>50</sup>

While maintaining its overall mandate, in this second phase, RAMSI was charged with the transitioning from stabilisation to development or, as phrased in the Executive summary of the RAMSI Annual Performance Report 2006/2007, “from ‘doing’ to building up Solomon Islands institutions”.<sup>51</sup>

RAMSI’s law and justice emphasis was clearly on institution building, and little attention was paid by SIG officials, Australian representatives, and/or RAMSI personnel on ‘what kind of law and justice institutions’ were to be developed. There was also little discussion of ‘what/which’ type of state—colonial, immediate post-colonial, early 1990s—the SIG’s law and justice institutions were to be situated and developed. It is axiomatic that development and/or institution building cannot truly take hold without clear and definitive objectives. In a postconflict environment this means, first and foremost, determining the nature and structure of a viable and sustainable state. Thus, during RAMSI’s second phase a double-layered problem ensued, regarding first—the lack of political and substantive engagement on what the nature and structure of the Solomon Islands state ought to be, and second—a comparable lack of advocacy and assistance for exploring the appropriate kinds of law and justice institutions and agencies that are to fit into and are the integral agencies of that state.

Even though interviewees insisted that SIG officials displayed little enthusiasm in addressing these issues, the lack of development thinking about the nature of the Solomon Islands state and its law and justice institutions was also a political and substantive shortcoming on the part of Australia and RAMSI. These weaknesses might have been partially addressed if, prior to 2011, RAMSI had designed a law and justice support program—one of whose pillars would have been greater emphasis on drawing out questions about the nature and structure of the

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<sup>50</sup> RAMSI Annual Performance Report 2005/2006, p. 5.

<sup>51</sup> RAMSI Annual Performance Report 2006/2007, Executive summary.

Solomon Islands state as a development partner.<sup>52</sup> Good donor practice requires that these political and substantive challenges be raised early in the postconflict process and not be put off until some future date.<sup>53</sup> Even when a recipient government expresses little interest in engaging in these issues, donors still have a fiduciary responsibility to their domestic taxpayers to undertake political explorations and support far-ranging development support initiatives. This holds particularly true for Australia, given the magnitude to which it has financially underwritten RAMSI, and continues to do so.

In addition, as interviewees testified to, Australia and RAMSI did not engage in a number of other fundamental law and justice issues—ones that are considered essential drivers of change, stimulants of conflict and key hurdles in state–society peacebuilding. Reportedly, for example, Australia and RAMSI resisted attempts to open discussions regarding the possibility of reforming the Solomon Islands state as a federalist entity, despite public clamour for such a discussion. It has also been recognised that, until 2009, RAMSI’s engagement with civil society “focused on communities as recipients of knowledge, rather than as active participants in the justice sector”.<sup>54</sup> Furthermore, there was little attempt by Australia or RAMSI to address the dynamics and causes of the Tensions.<sup>55</sup> Questions of land distribution, land tenure and utilisation of customary land were also set aside<sup>56</sup> for a variety of reasons: too political, too complex, inappropriate for Australia’s contribution to law and justice development and RAMSI, and a concern belonging solely to the SIG itself.<sup>57</sup> Once again, although it is the responsibility of the SIG to address these challenges along with other drivers of change, greater and more consistent advocacy and engagement on these issues on the part of Australia and RAMSI could have strengthened the foundations for law and justice service provision in Solomon Islands.

Nevertheless, during this second phase, RAMSI adopted more of a development orientation to its law and justice programming. RAMSI not only continued to rebuild the SIG’s law and justice institutions and agencies through, among other projects, capital infrastructure initiatives and the provision of technical advisers, but also initiated the handover of SIG’s law and justice institutions. Within RAMSI’s law and justice component, for example, the number of technical advisers working within the CSSI fell to around 40 by July 2007. A Solomon Islands citizen took over the reins of the DPP, even though 10 RAMSI prosecutors remained with primary responsibility for the Tension Trials and a total of 35 served throughout the judiciary and

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<sup>52</sup> It is only recently, in late 2009, that a law and justice program design process was initiated.

<sup>53</sup> Ball, Nicole, et al., *From project to program: effective programming for security and justice*, Clingendael Institute, The Hague, 2007. All of this should have been initiated during RAMSI’s first phase, while stabilisation activities are being undertaken. These processes need to be conducted in parallel, one with another and in a joined-up manner, despite the endemic tensions that exist between stabilisation and development endeavours: *Building Stability Overseas Strategy*, United Kingdom Government, 2011.

<sup>54</sup> *RAMSI law and justice program design document*, annexes, p. 10.

<sup>55</sup> The parliamentary inquiry into the 2006 Honiara riots concluded that neither the Special Coordinator of RAMSI nor the Australian High Commissioner believe that it was their responsibility to address the root causes of the Tensions: *Commission of Inquiry into the April 2006 Civil Unrest in Honiara*, 2009, p. 205.

<sup>56</sup> As observed by interviewees including AusAID, RAMSI and SIG personnel.

<sup>57</sup> AusAID’s bilateral program provided US\$350 000 in 2009–10 and US\$300 000 in 2010–11 for the World Bank’s Justice for the Poor initiative’s land-related work in Solomon Islands. That work is in its early stages.

court system.<sup>58</sup>

Similarly, by June 2007, the number of PPF officers had been reduced to 315, drawn from 13 Pacific Islands Forum countries, with the emphasis of their work to be ‘coaching and mentoring’.<sup>59</sup> This was a marked shift of PPF focus “from operational policing to support for senior and middle management in RSIPF, and to administrative, system and corporate support”.<sup>60</sup> Unfortunately, as was true with RAMSI’s overall law and justice programming, the PPF did not initiate policing plans and/or strategies that could have begun to lessen the financial dependence of the RSIPF on RAMSI or initiate substantive strategic planning regarding what shape the RSIPF could assume.<sup>61</sup> Once again, strategic planning and budget responsibility for the RSIPF clearly lie with the SIG, but the principal international actors—the PPF, RAMSI, and/or Australia—could have taken meaningful and consistent measures to encourage the RSIPF and the SIG to reduce their financial dependence on RAMSI, in line with the institutional building objective of phase two.

The third and current phase in RAMSI’s evolution began in April 2009, with the establishment of the Partnership Framework between the SIG and RAMSI—a joint statement of agreed goals.<sup>62</sup> It remains the overarching document guiding RAMSI’s support of law and justice in Solomon Islands, and effectively outlines a vision of transition for RAMSI and Solomon Islands until at least 2013. It is also a major milestone in beginning the process of formulating the contours of what the nature and structure of the Solomon Islands state will be and for whom it exists, an evolution that the 2011 RAMSI law and justice program design document extends further.<sup>63</sup>

As part of this transitional process and opening the discussion of what the nature and structure of the state might be, two parallel initiatives have been launched, both of which are excellent and under the aegis of RAMSI’s law and justice component. First, in conjunction with the SIG Ministry of Justice and Legal Affairs, the World Bank’s Justice for the Poor initiative is conducting a survey and analysis of how justice is delivered locally throughout Solomon

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<sup>58</sup> By the summer of 2007, 19 Tension Trials had been completed before the High Court, which at that time represented approximately 50 per cent of all anticipated trials: *ibid.*, p. 12. A year later, 31 Tension Trials had been completed: *RAMSI Annual Performance Report 2007/2008*, Report highlights.

<sup>59</sup> *RAMSI Annual Performance Report 2006/2007*, p. 7.

<sup>60</sup> *RAMSI Annual Performance Report 2007/2008*, p. 4. Despite the report, interviews in the field claim that this shift in PPF approach did not happen until 2010, which raises troubling questions about the accuracy of some field reports.

<sup>61</sup> *Ibid.*, p. 7.

<sup>62</sup> *Partnership Framework between the Solomon Islands Government and the Regional Assistance Mission to Solomon Islands*, April 2009.

<sup>63</sup> Development of the RAMSI law and justice program design document began in late 2009 and is meant to cover development assistance from 2011 to 2013, although it is envisaged to be part of a 10-year engagement. It is important to note, however, that continued support for the development of the RSIPF is not included in the design document and remains the sole responsibility of the PPF (see *RAMSI law and justice program design document*, p. 14). However, the program design document deliberately refers to policing as important to the pursuance of justice in Solomon Islands, and therefore provides scope for coherent development programming across all law and justice agencies (including police), subject to discussions and approval from SIG. Nevertheless, the absence of the RSIPF in the program design document is troubling as it reinforces programmatic siloing, as will be discussed later.

Islands.<sup>64</sup> Based upon on-the-ground interviewing, this endeavour is an intensive effort to determine how and to whom justice is delivered locally, what the local community priorities are, and preferences for the delivery of service. The overall purpose of the study is to inform policy development and dialogue with respect to how access to justice can be enhanced, its delivery improved at the local level, and donor assistance focused to support these objectives.

Second, on behalf of the RSIPF, the Justice for the Poor is conducting a review of the first year of the Community Officer (CO) pilot project. The CO scheme, as designed by the RSIPF and the PPF, is an attempt to bring non-sworn personnel into the policing of the more rural areas of Solomon Islands. In some ways, this effort is a 'back to the future' strategy, as the project replicates one type of policing that had been prevalent during the colonial era. But the CO scheme is not just about policing. It can be perceived as the first step in a re-introduction of the 'face of the state' into rural areas where the SIG is not readily able to deliver public goods and services. It also has the potential to have implications for justice and governance more broadly, as local level policing is an "integral part ... of more encompassing social systems" and must be "embedded in larger systems of district and local administration".<sup>65</sup>

A third initiative was supposed to be initiated, but it appears to have stalled. This third strategic project, originally supported by the PPF, was meant to be an RSIPF-led review of policing in Solomon Islands, an exercise intended to think through what types and forms of policing are most suitable and appropriate throughout the country. The launch was to have begun by the SIG in October 2010 with an estimated Cabinet submission date of June 2012, but it has yet to commence.<sup>66</sup> Instead, according to a PPF representative, assuming staffing levels stay the same, a review of the RSIPF's organisational structure is to come into effect in 2012. According to a PPF official, it appears that the SIG is satisfied with the CO evaluation and preparations for revisions of the Police Act, and that momentum for a thorough review is all but faded.

This is regrettable because taken together these three initiatives, along with an earlier magistrates' sustainability taskforce review, would have established an excellent foundation upon which broad-ranging political and substantive discussions concerning the country's future directions could have been grounded—by whom, how and at what levels law and justice will be delivered over the coming years. As it is, the two existing projects—CO scheme/evaluation and justice delivered locally—will need to suffice, and they do provide an excellent starting point.

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<sup>64</sup> In addition to the monies contributed to Justice for the Poor's examination of land issues, RAMSI gave Justice for the Poor a total of US\$400 000 in 2009–10 and US\$800 000 in 2010–11. In addition to workshops, publications, conferences and a future pilot project yet to be designed, this second tranche of monies pays for a review of the Community Officer pilot project and the justice delivered locally study.

<sup>65</sup> Dinnen, Sinclair and Nicole Haley, *Evaluation of the Community Officer project in Solomon Islands*, draft report, World Bank, 2011, p. 11.

<sup>66</sup> Based upon interviews, it was anticipated that the review will recommend a policing system that differentiates between Honiara; the provincial centres; the economic enclaves where extraction industries dominate (timber, mining) or where there are special trading zones; and rural areas—each having its own type of policing with regard to deployments and policies.

The need for this type of in-depth analysis is essential given the findings of the 2010 People's Survey,<sup>67</sup> which suggest the need to rethink how law and justice is delivered by the SIG at the local level, and therefore how Australia supports law and justice development in Solomon Islands, including its contribution to RAMSI. For example, the survey indicated that 44 per cent of respondents involved in a dispute said the main source of help was a chief or 'big man', and 27 per cent said the police.<sup>68</sup> Additionally, the survey found that, in focus group discussions, "most people prefer land disputes to be handled by chiefs and elders, including church elders, because they are respected and understand the land boundaries and local customs".<sup>69</sup> The survey also indicated that the population believes that the best way to improve justice and dispute resolution is:

*'more respect for chiefs' (46%), 'kastom' (26%), 'elders' (19%) and 'church' (19%). 'More community policing' was mentioned by 15% and 'more access to RSIPF' by 10%. Less than 10% mentioned the courts and other modern sources of justice and dispute resolution.<sup>70</sup>*

This suggests that a significant percentage of SIG's law and justice service delivery will need, in the future, to be grounded in one way or another in local mechanisms and processes. It is becoming increasingly evident that Australia's support to law and justice in Solomon Islands, as well as its contribution to RAMSI, may in the future need to concentrate more explicitly on local law and justice service delivery to meet the needs of Solomon Islands people.

In addition to the two strategic initiatives undertaken by RAMSI's law and justice component, in this third phase, RAMSI has continued to rebuild the SIG's capital infrastructure and reduce its provision of technical assistance. In May 2011, the numbers of foreign advisers were roughly: 16 advisers in the CSSI; 25 within the justice agencies, judiciary and courts; and 250 in the PPF. Within the CSSI, these advisers continue to assist in the development and management of infrastructure, staff capacity and prison rehabilitation programs. Within the justice agencies and national judiciary, RAMSI assistance is dedicated to developing staff capacity; completing the Tension Trials (45 of which have been completed); improving the court system, including extensive training initiatives; bolstering infrastructure; increasing access to justice; and assisting continued legal reform. For the PPF, its primary responsibilities remain strengthening the RSIPF and the population's confidence in them by supporting the improvement of the service's overall capacities, particularly in infrastructure, logistics, crime prevention and accountability procedures.

In addition, RAMSI, through co-funding by its law and justice component and the PPF, is

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<sup>67</sup> This report does not make reference to the People's Survey 2011 because that survey is only in draft form as this report is being finalised. While it appears that the basic law and justice findings of the 2011 survey coincide with those of the 2010 one, there has been a continued deterioration of public satisfaction with the RSIPF from 2010 to 2011 (pp. 100, 102), a very worrying phenomenon: *People's Survey 2011*, forthcoming.

<sup>68</sup> *People's Survey 2010*, Australian National University, Canberra, 2011, p. 18. It should be noted that the survey concedes that the statistical reliability of its analysis of dispute resolution is weak, given the low response rate for these questions.

<sup>69</sup> *Ibid.*, p. 18.

<sup>70</sup> *Ibid.*, pp. 18–19.



supporting the Children and Youth in Conflict with the Law project (phase II), which is being implemented by Save the Children. The project is envisaged to run for five years for a total of A\$5 million.

Despite initial resistance, Australia is among other donors that support the Truth and Reconciliation Commission, contributing A\$500 000 through its bilateral programming. Originally proposed by the SIG in 2007, the Truth and Reconciliation Commission was established by the *Truth and Reconciliation Commission Act 2008* in August 2008. Its mandate is to examine the causes of the violence and turmoil of the Tensions and assess individual and/or group responsibilities. It will also analyse the effects and repercussions of the Tensions on Solomon Islands and its citizens.

Since 2009, AusAID has also been funding six NGOs through the Solomon Islands NGO Partnership Agreement.<sup>71</sup> The objective of the five-year A\$20 million initiative is to support civil society organisations to improve the quality of the daily lives of citizens, particularly women and young people. The Solomon Islands NGO Partnership Agreement supports Oxfam to work with the Family Support Centre (Honiara) and the Western Province Council of Women on gender-based violence. Australia also supports a range of justice initiatives through the Human Rights Small Grants Scheme, including projects aimed at improving community access to justice.

### **RAMSI's achievements to date<sup>72</sup>**

RAMSI's achievements over the past eight years are impressive and cannot be underestimated. As one scholar notes, given the complexities of the situation and the "intricate knot of fragilities that is a legacy of Solomons history and culture, the peacebuilding that has been done has been surprisingly successful".<sup>73</sup> Others have praised how RAMSI, over the years, became a 'learning' organisation.<sup>74</sup>

Most importantly, with RAMSI support, Solomon Islands is now relatively stable and the SIG has been resurrected and strengthened. RAMSI's accomplishments include the assumption of SIG responsibility for the DPP, PSO, CSSI, Attorney General and the Auditor General. The DPP has assumed a greater role in the training of its own personnel, as has the RSIPF within its own Academy. Other achievements are RAMSI's successful engagement with the Ministry of Justice and Legal Affairs, having its team of advisers co-located within the ministry since 2005, and SIG Cabinet approval in 2010 of the Solomon Islands elimination of violence against women policy.

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<sup>71</sup> "Six Australian NGOs (Oxfam, APHEDA, ADRA, IWDA, Save the Children and the Anglican Board of Mission/AnglicORD) are funded to work with their Solomon Islands partners (Save the Children SI, Anglican Church of Melanesia, ADRA SI, Live and Learn, Western Province Council of Women and Family Support Centre) to carry out community-led development": Solomon Islands NGO Partnership Agreement, *Strongim Yumi Tugeta*, program design document, 2009, p. v.

<sup>72</sup> See Annex B for a chart detailing RAMSI's spending in Solomon Islands.

<sup>73</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 1.

<sup>74</sup> *Ibid.*, pp. 157–58.



More concretely, new ministries, courthouses, police stations, police housing and prisons have been built and/or rebuilt. The new rules of civil procedure that came into effect in March 2008 was yet another step in rebuilding the legal infrastructure of the country, much the same way the new Corrections Act was essential in establishing the CSSI on a firm footing. Legislation and policies protecting the rights of women, the increasing involvement in strategic planning of the National Judiciary and Ministry of Justice and Legal Affairs, and better budgeting across the law and justice institutions, are other significant accomplishments. The pre-trial conferences that recently began between DPP and PSO, managed by the magistracy, are an excellent technique to provide swifter and more rights-respecting justice.<sup>75</sup> The progressive vetting of the RSIPF personnel, which has entered a new phase in May 2011, is also a major achievement—a requisite step in rebuilding the integrity of the service so that it can regain citizens' confidence in its reliability.<sup>76</sup> Finally, clinics which are supported by RAMSI's law and justice program and conducted by the PSO throughout Solomon Islands have raised awareness within the population of their legal and civic rights.

Another significant achievement that ought to be explicitly underlined is the Partnership Framework and its establishment of key performance indicators (KPIs) for Solomon Islands law and justice ministries, agencies and service providers. In a process led by Solomon Islanders and with buy-in from the SIG, the Partnership Framework "identifies specific verifiable targets and indicative timeframes for their achievement",<sup>77</sup> a comprehensive attempt to place RAMSI's assistance and the performance of the SIG onto a sound performance appraisal and monitoring and evaluation foundation. Even though questions exist regarding the indicators identified and how they are used, as will be discussed below, the creation of these initial targets in 2009 represents a significant step forward as the KPIs for each of the law and justice providers evolve in subsequent iterations.

Equally importantly, with RAMSI support, the RSIPF has issued a Strategic Directions 2010–2013 document outlining the police's vision of law enforcement. Additionally, according to interviews with PPF personnel, the RSIPF has become proficient at clearing the highest priority serious crimes, other than those that involve rape or domestic violence, a topic that will be analysed in Section 5.<sup>78</sup> The RAMSI Annual Performance Report 2010 (the 2010 Report), using the KPIs, catalogues the RSIPF's most recent achievements. Among these are the successful management of the 2010 elections, including specialist training for 40 senior officers in incident command and control systems, 150 officers in Level 1 public order

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<sup>75</sup> Cases are being cleared more quickly, but it is important to recognise that swifter justice does not necessarily equate to improved justice. Timely processing of cases is an important criterion of enhanced justice service delivery, but the quality of the decisions rendered is yet another indicator.

<sup>76</sup> Among the signs that the integrity of the RSIPF has been bolstered is the precipitous fall in "the number of substantiated criminal allegations against members of the [police] ... from 567 allegations in 2003 to 28 in 2007": *RAMSI Annual Performance Report 2007/2008*, p. 5.

<sup>77</sup> *Partnership Framework between the Solomon Islands Government and the Regional Assistance Mission to Solomon Islands*, April 2009, p. 4.

<sup>78</sup> One PPF official noted that technically the RSIPF has the capability to investigate a broad spectrum of crimes, but they lack the resources to do so effectively. As a result, the RSIPF rations its investigative capability for only the highest priority jobs.

management and 30 response team officers in Level 2; and effective security during the sentencing of a former SIG minister.<sup>79</sup> The police accommodation project, which builds housing for RSIPF officers, is also credited with being an effective initiative, as is the establishment of a voluntary early retirement initiative—one of the mechanisms by which the RSIPF may be able to enhance public confidence in their integrity and effectiveness.

The 2010 Report also praised the CSSI. The percentage of staff attaining workplace competencies increased over the year, two prisoner rehabilitation initiatives were launched and a corporate plan for 2011–15 was written.<sup>80</sup> Training of staff continued apace and, according to the 2010 Report, capacity building continued to be the:

*main focus of support to ensure sustainability of leadership and management capacity. Seven staff, two of whom are women, were funded for tertiary study including in financial management and accounting, and IT systems development. An additional 60 staff are undertaking pre-tertiary intermediate English and book keeping courses through University of the South Pacific.*<sup>81</sup>

As far as justice development is concerned, a Justice Sector Consultative Committee (JSCC), with its terms of reference redrafted in 2010, continues to meet and discuss SIG justice policy and strategy development.<sup>82</sup> Job descriptions for 473 SIG staff have been written and budgets have been developed. Impressively, in 2010, the magistrates' courts were in session 25 per cent more often than in 2009.

The list is long and getting longer year by year. At the same time, it must be acknowledged that many of these accomplishments, and the KPIs upon which they are grounded, are outputs and not outcomes/results, which calls into question the efficacy of the KPIs and RAMSI's monitoring and evaluation systems. While measuring outcomes and results can be very difficult, when designing law and justice programs, it is prudent if not imperative to develop specific outcome and result indicators. It is only through such indicators that program managers and evaluators can determine if the program is achieving identifiable results for citizens and represents value for money. For example, a decrease in RAMSI's foreign advisers<sup>83</sup> and an increase in the percentage of magistrates' courts being in session may be positive signs, but neither suggests that the SIG is providing better law and justice to its citizens. Similarly, the increase in the clearance rate of the RSIPF is not, in itself, an adequate performance indicator of the criminal justice system. While 'clearing' a case may be necessary, it is not a sufficient factor to the achievement of a successful prosecution.

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<sup>79</sup> RAMSI Annual Performance Report 2010, p. 2.

<sup>80</sup> Ibid., p. 4.

<sup>81</sup> Ibid.

<sup>82</sup> According to its terms of reference, as "the peak governance, decision-making body of the Solomon Islands Justice Sector, the Justice Sector Consultative Committee provides collective leadership through voluntary association concerning strategic planning, policy, financial and operational coordination issues and initiatives that promote the best interests, cooperation and sectoral integration of the Justice Agencies".

<sup>83</sup> The number of RAMSI's technical advisers fell from 109 in the period 2005–2008 to 26 in 2010: RAMSI Annual Performance Report 2010, p. 6.

The challenge RAMSI confronts in monitoring and evaluating its performance has been a persistent and acknowledged difficulty over RAMSI's existence. For instance, in the Annual Performance Report 2006/2007, it was already conceded that:

*despite the increasing evidence of progress, it remains difficult to form consistent judgments as to how well RAMSI is performing from year to year. This is partly because monitoring and evaluation arrangements do not yet tell us enough about what RAMSI hoped to achieve and what was achieved against the Medium Term Strategy in the year ...*<sup>84</sup>

The report goes on to note the difficulty of the task given that no single monitoring and evaluation model will fit all of RAMSI's support activities, but that "there is scope for greater consistency over these general principles [and all] programs need to demonstrate external validation of their results".<sup>85</sup>

The Annual Performance Report 2007/2008 reiterated the monitoring and evaluation challenge. Singling out RAMSI support for the CSSI as the exception to the rule, the report noted that:

*there is still inconsistent practice in the ability to say whether progress in a given period was at or below expectation, to collect comparative data over time, to map transitions and to assemble performance information which is equally valuable to program management, counterpart agencies, external reviewers and other stakeholders ... In short, performance reporting in some programs is not helping management to manage or to account for progress as well as it should.*<sup>86</sup>

The monitoring and evaluation challenge was highlighted again in 2009. While the KPIs will be more fully discussed later in this report, it is important to note, as the Annual Performance Report 2009 observed, that the number of indicators is exceptionally high, if not onerous. Most of them continue to record outputs rather than outcome/results, and cross-cutting issues are poorly reflected in the indicators.<sup>87</sup> Furthermore, the Partnership Framework presents development aspirations and objectives, but:

*the pathway to the higher level objectives and targets is not necessarily spelled out. Where that is the case it is impossible to know whether or not the various activities being undertaken are actually leading to long term change in the direction of the aspirational objectives or long term*

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<sup>84</sup> RAMSI Annual Performance Report 2006–2007, Executive summary.

<sup>85</sup> Ibid.

<sup>86</sup> RAMSI Annual Performance Report 2007–2008, Executive summary.

<sup>87</sup> RAMSI Annual Performance Report 2009, p. 18.

*targets.*<sup>88</sup>

The monitoring and evaluation challenge raises another issue of importance: value for money. In the case of Solomon Islands this is a vital issue, given the magnitude of Australia's contribution to RAMSI and its law and justice programming. While RAMSI has stabilised the country, which in itself generates a very significant security dividend, determining whether RAMSI's subsequent development phases have generated value for money primarily depends upon its performance of delivering law and justice. In an assessment of value for money, outputs qualify only as intermediate indicators of programmatic effectiveness, albeit important criteria. They are necessary means to an end—crucial precursors upon which improved service delivery may be based—but they do not necessarily indicate that a positive change of behaviour has occurred or will occur in the system(s), organisation(s) and/or personnel delivering law and justice, a phenomenon now acknowledged by RAMSI.<sup>89</sup> However difficult to achieve, it is not the newfound or strengthened capacity of an organisation to write a strategic plan or establish a meritorious career development structure that matters, but whether the implementation of the strategic plan and human resources system delivers better law and justice to the country's citizens. Similarly, the number of personnel trained, the passage of legislation and the development of procedures may hint at potential future value for money but, in themselves, they are insufficient measures upon which a judgment can validly rest. In the last analysis, therefore, attaining value for money depends upon the production of tangible outcomes/results.

A lack of indicators that measure outcomes/results makes it exceedingly difficult to determine the level to which a program has produced value for money. Given the lack of evidence, it may be best to rely upon the judgment of a senior AusAID official, who in 2011 argued that after the successes of the initial stabilisation phase, at best, Australia's support and its contribution to RAMSI have resulted in the establishment of 'hollowed out' law and justice institutions, ones that provide a meager level of public service to the citizens of Solomon Islands, and primarily in and around Honiara—a conclusion echoed in the findings of the 2010 Annual Performance Report.

RAMSI, however, has supported and continues to support a method by which to measure outcome/results—the People's Surveys—to which this report has already made reference. These surveys have been conducted for the past four years, with the most recent one published in April 2011. The purpose of the surveys is to collect quantitative and qualitative monitoring data for the SIG and RAMSI that is statistically valid and reliable.<sup>90</sup> Conducted nationwide, they include a host of data from livelihoods to access to clean water, health care and education, from perceptions of safety and security to household finances, from knowledge of the internet to support for RAMSI, and are a major international contribution to

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<sup>88</sup> *Ibid.*, pp. 18–19.

<sup>89</sup> "There is no straightforward connection between the ability to do something and the actual result and it is sometimes difficult to determine whether capacity will actually translate into something substantial and sustainable": *RAMSI law and justice program design document*, p. 40.

<sup>90</sup> *People's Survey 2010*, Australian National University, Canberra, 2011, p. 9.

internationally supported development. In law and justice development they set a standard that donor support worldwide will now have to meet.

Unlike the KPIs in the Partnership Framework, many if not most of the survey's indicators are measurements of outcomes/results—such as whether service delivery meets needs; addresses priorities; is believed to be reliable, fair and equitable; and providers are trustworthy. As with any service delivery, the perception of the customer/client is one of the key indicators of good service provision. Public perceptions, however, are not the only method of measuring outcomes/results, but within a basket of indicators they provide a very useful gauge of service delivery.

At the same time, even though the survey's methodology was recently redesigned to make it a more "effective, valuable tool towards measuring RAMSI's progress in achieving its goal",<sup>91</sup> the surveys do not measure the outcomes/results of RAMSI's activities per se, but rather the direction in which Solomon Islands, as a country, is moving.<sup>92</sup> It is nearly impossible to establish a causal relationship between RAMSI's discrete and circumscribed law and justice program activities and the related indicators of the surveys. More than likely, however, associated relationships exist between RAMSI's activities and the surveys' measurements. Greater professionalism of RSIPF personnel should be correlated to the indicator "RSIPF treats people fairly and with respect", but that correlation is not necessarily causal. This is not to belittle the surveys, for they are a valuable resource. Neither is it to depreciate RAMSI's law and justice support activities. The observation merely notes that more refined indicators of RAMSI's programmatic effectiveness are required than currently exist. This will be discussed later in the report. Only from these can an accurate determination be made of RAMSI's effectiveness and, similarly, only these can provide a reliable basis upon which to judge whether RAMSI is producing value for money.

### **RAMSI's capacity-building model**

As already noted, upon arrival in the Solomon Islands in 2003, RAMSI's principal duty was to stabilise the country and secure basic law and order.<sup>93</sup> Nevertheless, subsequent to the successful establishment and the restoration of basic law and order and even as RAMSI began to support the building of the law and justice institutions of the Solomon Islands state, in the second and third phases of RAMSI's history it actively recruited expatriates to fill gaps within the SIG. Recently, for example, though overall numbers declined, a RAMSI law and justice component staff member remarked upon the high levels of technical assistance positions that RAMSI has filled through 2011 to ensure legal/court services are being delivered. While such RAMSI support may be necessary to maintain some level of delivery of public goods and

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<sup>91</sup> Ibid.

<sup>92</sup> See Scheye, Eric and Diana Chigas, *Development of a basket of conflict, security and justice indicators*, Department for International Development (DFID) Project, May 2009.

<sup>93</sup> A 2009 review observed, "capacity development was not an explicit objective of the PPF when it commenced in 2003 – at that time, the immediate priority was unreservedly and as a matter of urgency to restore law and order", *Independent review of the RAMSI Participating Police Force's (PPF's) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, 2009, p. 11.

services to the country's citizens, as already argued, the practice of inserting foreigners into line positions within the SIG's law and justice institutions and agencies is not a sustainable development activity, unless Australia makes an undertaking to fund an open-ended commitment to maintain SIG's law and justice operations. Currently, there is no such undertaking.

Throughout phases two and three, alongside its gap-filling activities, RAMSI's principal type of law and justice programming has been what it calls 'capacity building'. A 2006 stocktaking RAMSI engagement, for example, found that:

*although earlier phases of RAMSI support were focused heavily on stabilisation aimed at restoring law and order, the last twelve months has seen much more concerted effort to re-focus assistance so that it contributes to longer term sustainability. In particular, RAMSI programs now have a much more explicit responsibility for capacity building, in relation to institutions, organisations and individuals.*<sup>94</sup>

A 2007 audit of coordination within RAMSI found that "significant progress has been achieved over the first two to three years of RAMSI's deployment. However, the task has become more difficult as the focus has shifted from restoring law and order and stabilising government finances, to capacity building".<sup>95</sup> Again, in 2010, it was stated that "capacity development has remained central to the Partnership Framework across all pillars".<sup>96</sup>

Similar language can be found in virtually all RAMSI publications and documents to date. Time and time again, the team was told that RAMSI is currently in a transition, but it is one that is best managed and depends upon successful capacity building. Capacity building was the one constant theme of almost every meeting with RAMSI and AusAID personnel. As senior PPF and law and justice component officials concurred when queried by the team, it therefore appears accurate to conclude that organisational capacity building is the principal approach, including its contribution to RAMSI, which Australia has adopted for its support to law and justice in Solomon Islands.<sup>97</sup>

This is not to suggest that the organisational capacity-building model is the only approach

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<sup>94</sup> *Capacity building through the Regional Assistance Mission to Solomon Islands (RAMSI) – A stocktake, phase II – law and justice sector*, 2006, p. 1. The stocktake referred to the entire spectrum of RAMSI law and justice activities. With specific focus on the PPF, the stocktake found that "the PPF is now quite clearly focusing on sustainability and self-reliance with regard to capacity development and institutional strengthening within the [RSIPF]. The PPF Sustainability and Self Reliance program is consciously interlinked with the [RSIPF] Strategic Review and Corporate Plan, and PPF outputs and outcomes are now defined in terms of [RSIPF] performance improvements" (p. 15).

<sup>95</sup> *Audit of coordination*, 2007, p. 13; see also the section of the *RAMSI Annual Performance Report 2007/2008* titled 'Capacity development'.

<sup>96</sup> *RAMSI Annual Performance Report 2010*, p. ii.

<sup>97</sup> It should be noted that even the language of capacity building is being fundamentally questioned by practitioners and scholars. See Institute of Development Studies, *An Upside Down View of Governance*, University of Sussex, London, 2010: "There is growing recognition that institutional models cannot be transferred into very different social and political environments and be expected to take root and function as they do in OECD countries" (p. 5).

RAMSI has chosen for its law and justice programming; the recent CO scheme/evaluation and justice delivered locally study are two cases in point. The assertion is that organisational capacity building has been and continues to be RAMSI's *primary* law and justice approach for the PPF and the law and justice component, relegating the other options—service delivery, problem-solving and thematic—to secondary status. See Box 1 for a summary of these development approaches.



### Box 1: Summary of differences in program design and implementation types

The following is a summary of the key differences between the four approaches to program design and implementation: organisational capacity building, service delivery, problem-solving and thematic. While these differences may not hold true in each and every instance, they are broadly illustrative.

#### Challenge addressed

**Organisational capacity building:** strengthens competencies and capabilities of individuals and/or groups within institutions/organisations through enhancement of management styles, work cultures, policies, systems, tools, processes and authority patterns

**Service delivery:** focuses on the point at which a service provider delivers its public good to an identifiable recipient, and also on the relationship between provider and recipient

**Problem-solving:** identifies a concrete law and justice problem (e.g. court backlog, pre-trial detention, public disturbances because of alcohol consumption by young people) which is resolvable, and adopts classic problem-solving techniques—formulation of options, evaluation of alternatives, implementation of the chosen solution, measurement of results

**Thematic:** selects a societal challenge (e.g. resource exploitation such as forests and timber or minerals, urban development, gender violence), and explores how various actors, including law and justice providers, can contribute to addressing the chosen issue.

#### Principal beneficiaries

**Organisational capacity building:** mainly institutions, agencies, organisations and organisational units

**Service delivery:** identifiable individuals, groups, neighbourhoods and/or communities to whom the law and justice service is provided

**Problem-solving:** depending on the concrete problem being addressed—institutional units, identifiable individuals, groups and so on

**Thematic:** depending on the theme—individuals, groups, neighbourhoods and/or communities to whom that theme applies.

#### Monitoring and evaluation

**Organisational capacity building:** outputs corresponding to the identified policies, skills, managerial procedures and work tools

**Service delivery:** outcomes/results related to the service provided to identifiable recipients

**Problem-solving:** outcomes/results directly related to the resolution of the problem and the institutional units, identified individuals, groups and so on

**Thematic:** directly related to the individuals, groups, neighbourhoods and/or communities affected by the theme.

What capacity building means within RAMSI, however, is not entirely evident, in the sense that RAMSI has not crisply and officially enunciated a definition.<sup>98</sup> Nor is it evident that RAMSI has questioned the conceptual foundations or historical efficacy of the organisational capacity-building model, other than to identify a litany of difficulties and resource deficiencies within the SIG—financial, infrastructural and human—that RAMSI’s law and justice programming and gap-filling recruitment are meant to ameliorate. Finally, there does not seem to have been extensive discussion within the RAMSI law and justice program or between RAMSI and Australia about which development approaches to adopt when, how and why.

The 2006 stocktake includes a long list of capacity-building principles (various dos and don’ts), but these are not concrete operational guidelines. The 2007/2008 Annual Performance Report suggests that capacity building has two elements: individual and organisational. The distinction, however, does not define capacity building,<sup>99</sup> but only describes the need to differentiate between individual and organisational capacities. What each may mean in detail remains unspecified. As a result, according to the 2007/2008 Annual Performance Report, within RAMSI—with the notable exception of the CSSI—there has been a lack of “planned and sequenced approaches to capacity development of counterpart staff”.<sup>100</sup> The absence of a methodically designed law and justice development program, until the RAMSI law and justice program design document, has only compounded the problem. Not once during interviews, despite inquiring, was the team offered a lucid definition of capacity building, other than the intimation that capacity building appears to be ‘an end in itself’ rather than a ‘means to an end’—an increase in the delivery of public goods and services.<sup>101</sup> In other words, until the advent of the CO evaluation and justice delivered locally study, there seems to have been little cogent discussion within RAMSI concerning the ramifications of capacity building—for and with whom capacity building is to be undertaken, capacity building in what and why, and how capacity building is to proceed.<sup>102</sup>

A RAMSI official, perhaps inadvertently, provided the most cogent and succinct explanation of RAMSI’s understanding of capacity building. While claiming that RAMSI had pursued a

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<sup>98</sup> In a 2005 AusAID report, capacity building is defined as “the process by which people, organisations and society as a whole develop competencies and capabilities that will lead to sustained and self-generating performance improvement. It is both a process and an objective, and it applies equally to institutions and individuals. It is as much about developing management frameworks, work cultures, policies, systems, and processes as it is about developing skills. Support for capacity development can focus on any number of factors that affect performance (e.g. technical, management, governance). It is about ensuring developments in each of these areas reinforce each other, since they are mutually dependent”: *Generational change through capacity development: Australia’s role in supporting nation building*, draft, AusAID, Canberra, 2005, p. 1. Similar wording appears in two other AusAID discussions of capacity building; see AusAID, *Capacity development overview*, Capacity development operational policy note 1, October 2009, and AusAID, *Public sector capacity development*, Capacity development operational policy note 2, October 2009. The *RAMSI law and justice program design document* also contains comparable language: “the process by which people, organisations and society as a whole develop competencies and capabilities that will lead to sustained and self-generating performance improvement” (p. 21).

<sup>99</sup> *RAMSI Annual Performance Report 2007/2008*, p. 32.

<sup>100</sup> *Ibid.*, Executive summary.

<sup>101</sup> AusAID has recognised, “there is no such clarity when trying to pin down exactly what capacity development implies in practical terms for aid planning and delivery”, *Generational change through capacity development: Australia’s role in supporting nation building*, draft, AusAID, Canberra, 2005, p. 5.

<sup>102</sup> For a comprehensive AusAID analysis of capacity building, see AusAID, *Capacity development overview*, Capacity development operational policy note 1, October 2009, and AusAID, *Public sector capacity development*, Capacity development operational policy note 2, October 2009.

‘service-delivery’ approach, this official noted that:

*the reasons behind why better [law and justice] services are not being delivered ... inevitably come back to the lack of planning, [human resources], problems accessing budget from [the Ministry of Finance and Treasury] and other related problems.*<sup>103</sup>

This concise description of the challenge confronting RAMSI’s law and justice programming is, in fact, a recital of the core elements of the organisational capacity-building approach.

Each of the identified weaknesses relates to the strength and capability of an institution’s processes, procedures and management. None of the identified challenges refer to an actual service being provided, how a service is to be provided to a concrete and identifiable beneficiary, or to whom the public goods of law and justice are to be provided. None refers to a tangible law and justice need of an identifiable beneficiary. Furthermore, none of the identified bureaucratic weaknesses is susceptible to analysis through outcome/result indicators of a tangible service delivered. Determining programmatic effectiveness instead relies on output measurements—policies written, budgets allocated, training courses taken and so on. In fact, most often it is inappropriate to evaluate the effectiveness of a project designed to strengthen a bureaucratic process or management procedure by an outcome/result indicator because the end product of an institutional process is, most frequently, an output and not a public good and service to an identifiable beneficiary.

Consequently, it appears that the primary beneficiaries of RAMSI’s law and justice programming are not the citizens of Solomon Islands, but rather the ministries and agencies of the SIG, for it is their weaknesses that lie behind why better services are not being delivered. Bureaucratic deficiencies are the root causes and the drivers of change and therefore, by implication, the ministries and agencies of the SIG are the principal beneficiaries of RAMSI’s support endeavours. Finally, the underlying presumption is that with better planning, systematic budgeting and adequate human resources, those institutions and organisations will necessarily provide better law and justice services to the citizens of Solomon Islands.

If this understanding of organisational capacity building is, in fact, emblematic of RAMSI’s law and justice programmatic approach, the logic with which RAMSI has been supporting law and justice development rests upon three assumptions, none of which appear to have been seriously questioned by Australia or RAMSI. The first assumption is a straightforward correlation between strengthened SIG capacity and a decrease in RAMSI’s presence in the country. The Partnership Framework fits snugly within this equation, stating that it “is intended to reduce RAMSI’s engagement as Solomon Islands capacity grows”.<sup>104</sup> The second

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<sup>103</sup> Email correspondence with the author, November 2011.

<sup>104</sup> *Partnership Framework between the Solomon Islands Government and the Regional Assistance Mission to Solomon Islands*, April 2009, p. 4. This assumption coincides with AusAID’s 2005 study which stated, “the expectation is that, once capacity is developed, countries, sectors, institutions and managers will be able to address their own development needs without external support. They will be able to make better policy choices, develop and implement relevant and effective programs,

assumption, upon which the first depends, presumes that increased SIG capacity is equated to better and higher levels in the delivery of public goods and services, which in this case is law and justice, leading in turn to development.

The third assumption is that effective and equitable law and justice institutions, presumably of a centralised state, are leading indicators of development *and* drivers of change. This assumption suggests that an effective and rights-respecting police service, court administration, and/or bail and parole provisions within a prison system, for example, not only can be established before or while basic economic and political development occurs, but ought to be.<sup>105</sup> The following sentence from a 2008 RAMSI mid-term review is a concise description of this third assumption: RAMSI's concentration "now is on supporting Solomon Islands Government to develop the capacity, systems and procedures necessary to maintain stability and security and, *thereby, create* an environment that supports sustainable economic growth, improves service delivery and helps the SIG to be more responsive and accountable to the people of the Solomon Islands [emphasis added]".<sup>106</sup> In other words, capable law and justice institutions drive overall development.

None of these three assumptions is sufficiently grounded in empirical data to be taken at face value, without interrogation of the underlying logic. RAMSI's presumption that organisational capacity building necessarily generates improved law and justice service delivery is consistent with the theory of 'institutional capacity development', as outlined in the OECD DAC [Organisation for Economic Co-operation and Development – Development Assistance Committee] Handbook.<sup>107</sup> The theory postulates that the combined donor provision of

- physical infrastructure and equipment (e.g. courthouses, police stations, vehicles, computers, forensic labs, filing cabinets)
- training courses (e.g. court administration, human rights, special police investigations, domestic violence, case management)

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solve problems, perform functions and achieve objectives": *Generational change through capacity development: Australia's role in supporting nation building*, draft, AusAID, Canberra, 2005, pp. 3–4.

<sup>105</sup> The argument that rule of law is a prerequisite for economic development is the cornerstone presumption that law and justice institutions can lead a country's development. There is little to no historical evidence to support this contention. On the contrary, Western history suggests that the opposite is the case—economic and political development precede establishment of effective and rights-respecting law and justice institutions of a centralised state, which implies that these institutions are lagging rather than leading indicators of development. There is little in the development of Brazil, China, India and South Africa to indicate that the Western experience is not more universally applicable. The presumption also misreads the culture of most law and justice institutions, believing that they are engines of societal transformation, whereas history suggests that these institutions overwhelmingly tend to be conservative and resistant to change.

<sup>106</sup> *Mid-term review report, RAMSI law and justice program*, August 2008, 1.1

<sup>107</sup> Despite cautionary words and slogans to the contrary, the handbook firmly espouses the organisational capacity-building development model, whereby states are the principal beneficiary of development support, claiming that there are "three interrelated challenges that face all states: (1) developing a clear institutional framework for the provision of security that integrates security and development policy and includes all relevant actors; (2) strengthening the governance of the security institutions; and (3) building capable and professional security forces that are accountable to all civil authorities": *OECD DAC handbook on security system reform: supporting security and justice*, OECD, Paris, 2007. A similar perspective predominates within the United Nations (UN) and European Commission. In a project on which the author participated, a senior European Commission development official argued that states are the principal beneficiaries of the European Commission, while the citizens are only the 'final beneficiary'. The official's logic was that by building the capacities of the institutions and agencies of the centralised state the benefits of European Commission support would eventually trickle down to citizens through improved delivery of public goods and services.

- modernisation of managerial systems (e.g. financial/budgeting, human resources, planning)
- establishment of accountability mechanisms,

if conducted in a holistic and comprehensive manner, and preferably through coordinated sector approaches, will *inevitably and necessarily* result in improved delivery of the public goods and services of the institution or agency that is being supported. However, in the literature on law and justice or justice and security development there is little, if any, empirical evidence with which to presume a necessary causal relationship between capacity and service delivery, which may support the OECD's assumptions and development orthodoxy. To the contrary, as this report suggests, a number of these principles appear to be questionable and its theory of change flawed.

A recent analysis of justice development for the Asian Development Bank, for instance, suggests that a capacity-building strategy generates few tangible results, particularly when principal support activities consist of training and the provision of equipment, each of which can only be measured as an output.<sup>108</sup> At best, and under optimal circumstances, strengthened capacity is *necessary but not sufficient* for improving the provision of law and justice. While improved institutional capacities—better budgeting, planning, human resource management, capital infrastructure—may be essential precursors, there is no direct causal relationship between improved institutional/bureaucratic processes and better service delivery, which essentially is an activity between a service provider and a recipient(s). It is the activity of delivering a service itself that ought to be the focus of development and not the institutional capacity, with the primary beneficiary being identifiable individuals, groups and communities—and in particular, women. A changed perspective is important because the relationship between justice provider and recipient is mediated by a host of phenomena other than institutional capacity. These include leadership; socio-economic drivers of change; organisational behaviour; cultural values; gender relations; individual, group, and elite self-interest (however the actors themselves define it); and social efficacy.<sup>109</sup>

An excellent example of a lack of relationship between capacity and service lies within the RSIPF. While the RSIPF collects and collates basic crime statistics, broken down by age and gender, the 2010 RAMSI gender study found “no one who uses it within the service”.<sup>110</sup> In other words, the capacity exists, but it provides no service. According to a PPF official, the reason the RSIPF does not use its disaggregated crime data for operational purposes relates primarily to supply and demand; at present, no demand exists from the SIG for the RSIPF to

<sup>108</sup> Armytage, Livingston, 'Judicial reform in Asia – case study of ADB's experience: 1990–2007', *Hague Journal on the Rule of Law*, No. 3, 2011, p. 98.

<sup>109</sup> This argument is not new and has already been broached with regard to Solomon Islands. With a sophisticated understanding of capacity building, a 2007 review argued that “RAMSI, in short, is up against the challenge of dealing with fragile systems that do not lend themselves to repair solely through narrow technical approaches. If the constraints turn out to be more political and cultural than technical, RAMSI will need to go beyond more conventional approaches to capacity development”: Morgan, Peter, *Reflections on RAMSI and capacity development*, May 2007, pp. 3, 9. It does not appear, however, that this nuanced understanding has taken root in RAMSI.

<sup>110</sup> Ferguson, Susan, *The looking glass: an assessment of capacity to deliver outcomes for women and men, girls and boys, through the RAMSI and AusAID funded aid programs of Solomon Islands*, AusAID, 2010, p. 52.

report on demographic and crime information. While this suggests that there are significant political issues within the SIG that need to be resolved with regard to law and justice, this apparent lack of political commitment does not obviate the RSIPF's obligation to utilise the data it is collecting, collating and disaggregating. That it does not suggests that within the RSIPF sits a leadership and managerial challenge, which only underscores the general argument that increased capacity cannot be equated and does not necessarily improve service delivery. This is not an argument against the organisational capacity-building model per se. Rather, it suggests that an over-reliance on a capacity-building approach, one which does not integrate other models of development—service delivery, problem-solving and thematic<sup>111</sup>—into an overall program is unlikely to be effective and, consequently, doubtful in its ability to produce optimal value for money.<sup>112</sup>

Re-orienting RAMSI's law and justice development approach is not an easy endeavour. It is technically difficult to do, requiring an extended period of time to implement and weave together the disparate strands: gap filling, capacity building and a RAMSI law and justice transition. However, some existing RAMSI law and justice initiatives have already shifted and continue to shift away from the organisational capacity-building model—for instance, the establishment of pre-trial consultations. Another RAMSI initiative that suggests a greater awareness of the need to balance and proportion differing development approaches is the recent Request for Program Assistance template, dated 12 August 2011, which concentrates on 'What are the problems that you want to solve? How will the project fix these problems?'

Re-orienting the approach is also a politically difficult enterprise, given that RAMSI's law and justice programming has primarily directed its support to the institutions and agencies of the centralised state, and more specifically their operations within the capital, Honiara.<sup>113</sup> According to one RAMSI interviewee, approximately 80 per cent of SIG expenditures are in Honiara, which suggests that RAMSI's programmatic expenditures are, most likely, similarly concentrated, after having deducted the cost of transporting SIG personnel to the country's islands beyond Guadalcanal. While such transportation costs are extremely important, particularly with regard to the functioning of circuit courts, they are unsustainable. The challenge for Australia and Australia's contribution to RAMSI is a political one. As one interviewee unequivocally asserted, "everything happens in Guadalcanal and everything depends upon Honiara".<sup>114</sup>

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<sup>111</sup> See Annex A for a summary of the four types of development.

<sup>112</sup> In September 2011 at an OECD-sponsored meeting at the World Bank to discuss performance indicators in preparation for the 2011 Busan, Korea meeting on aid effectiveness, there was virtual unanimity on the need to move away from organisational capacity building in law and justice programming. The sole voice in favour of organisational capacity building, as the principal approach by which to undertake law and justice support programming, was the UN's Department of Peacekeeping Operations (DPKO).

<sup>113</sup> According to one recent study, RAMSI assistance has been primarily directed to "building the higher levels of the state justice system": Evans, Daniel, et al., *The Hybrid Courts of Melanesia; a comparative analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands*, World Bank Justice and Development Working Paper Series, 13, 2011, p. 6.

<sup>114</sup> As already mentioned, as part of the Partnership Framework, there are attempts to push law and justice development out into rural areas, but those initiatives are in their very early stages.



Over the years, scholars working with Solomon Islands issues have criticised RAMSI's over-reliance on the organisational capacity-building approach for slighting, for example, the needs of the provinces and victims of crime.<sup>115</sup> The parliamentary inquiry into the 2006 Honiara riots specifically noted that RAMSI had been too focused on 'institutional strengthening' of the RSIPF, to the detriment of service delivery.<sup>116</sup> Interestingly enough, the inquiry also called for the initiation of a dedicated 'urban policy' for Honiara that would combine policing, town planning, land tenure and administrative law.<sup>117</sup> In effect, the inquiry called for a radical departure from a capacity-building model and recommended, for Honiara, that donors advocate for and initiate programming that would support the SIG adopting a thematic approach that involves the whole-of-government concentrating on a single refrain—urban development. The point here is only to observe that non-RAMSI entities and individuals have already advocated for different models of development, for a better balance and proportioning of assistance between approaches.

Still, the predominant model of RAMSI's law and justice programming remains an organisational capacity-building model. According to the 2011 World Development Report, capacity building in a country such as Solomon Islands can be expected to continue for three generations until the ministries and agencies of the centralised state provide an adequate level of service delivery. The challenge therefore is how, in the intervening decades, does Australia configure its law and justice assistance, including its contribution to RAMSI, to provide better real-time law and justice service delivery to a 42-year-old woman living in such provinces as Western, Isabel or Malaita? How can Australia, while it continues to support organisational capacity building for the SIG's law and justice ministries and agencies, re-orient an adequate percentage of its law and justice programming to other approaches in order to provide better law and justice to that 42-year-old woman? Simply put, she cannot wait for a generation or two.

The answer, most likely, lies in the CO scheme/evaluation and justice delivered locally study.

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<sup>115</sup> Dinnen, Sinclair, 'Dilemmas of intervention and the building of state and nation', in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, p. 16.

<sup>116</sup> *Commission of Inquiry into the April 2006 Civil Unrest in Honiara*, 2009, p. 6. Comparable criticisms were made in the *Mid-term review report, RAMSI law and justice program*, August 2008, where it is stated that efforts need to be made to include "the needs of communities outside Honiara for the provision of justice services by the State. This would require research on such issues as community justice systems, innovative approaches to policing and corrections, and support for the establishment of capacity within the sector to collate and analyse data ..." (Executive summary).

<sup>117</sup> *Ibid.*, p. 43.



### 3. Is Australian programming relevant and sustainable?

This section examines the evolution of the objectives of RAMSI's law and justice assistance in Solomon Islands, as well as Australia's contribution to RAMSI. In many ways, the evolution has been a logical postconflict progression from first—a necessary urgent concentration on establishing stability and securing law and order, to second—initial development of the law and justice institutions, to third—an envisaged scaling down and reconfiguration of further donor assistance. It is in reference to this evolution that this section reviews the relevance and coherence of RAMSI's law and justice programming, as it reflects Australia's contribution. Thereafter, it examines the relevance of the objectives themselves, with special attention paid to questions of sustainability.

#### Changing objectives in RAMSI's three phases

"As late as January 2003, only six months before RAMSI was deployed, Australian Foreign Minister Alexander Downer [had] dismissed the option of armed intervention as 'folly in the extreme'."<sup>118</sup> Whatever the precise Australian motivation(s) for the abrupt change of policy may have been, it seems evident that one of the underlying logics of RAMSI's early activities, as scholars claim, was to 're-engineer' Solomon Islands, and particularly its government.<sup>119</sup> As former RAMSI Special Coordinator James Batley conceded, RAMSI was, at its heart, "a state-building exercise"<sup>120</sup> or, as one interviewee said, "the state is RAMSI's beneficiary"—early hints that the primary model RAMSI would adopt would be the organisational capacity-building approach.

Restoration of the SIG was interpreted to include:

*ensuring the security and safety of persons and property, maintaining supplies and services essential to the life of the community, preventing and suppressing violence, intimidation and crime, maintaining law and order, supporting the administration of justice, supporting and developing Solomon Islands institutions and responding to natural catastrophic events.*<sup>121</sup>

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<sup>118</sup> Allen, Matthew, *Long-term engagement: the future of the Regional Assistance Mission to Solomon Islands*, Australian Strategic Policy Institute, March 2011, p. 4.

<sup>119</sup> Braithwaite, John, et al., *Pillars and shadows: statebuilding as peacebuilding in Solomon Islands*, Australian National University Press, Canberra, 2010, p. 51. A publication titled *Our failing neighbour, Australia and the future of Solomon Islands*, published immediately prior to the deployment of RAMSI, argued for an Australian intervention that would undertake long-term state building (Australian Strategic Policy Institute, Canberra, 2003). See also Peake, Gordon and Kaysie Studdard Brown, 'Policebuilding: the International Deployment Group in the Solomon Islands', *International Peacekeeping*, vol. 12, 2005: 520–532.

<sup>120</sup> Quoted in Dinnen, Sinclair, 'Dilemmas of intervention and the building of state and nation', in Dinnen, Sinclair and Stewart Firth, eds, *Politics and state building in Solomon Islands*, ANU E Press and Asia Pacific Press, Canberra, 2008, p. 13.

<sup>121</sup> *Facilitation of International Assistance Act (2003)*, Article 2.

As already noted, little attention was paid to advocate for and support the reconstitution or restructuring of state–society relations, an essential peacebuilding and development activity after the cessation of civil strife, given the centrality and often necessity of reinvigorating the country’s social contract.

With the restoration of stability and basic law and order, the second and third phases of postconflict support proposed new objectives, while remaining with the overall RAMSI mandate. Sensibly, the goal became to establish “the maintenance of a safe and stable environment ... that is underpinned by an effective, affordable and culturally appropriate law and justice system that is accessible to all Solomon Islanders”.<sup>122</sup> Unfortunately, the operative phrase of “affordable and culturally appropriate law and justice system” did not garner the attention it deserved, because until very recently there has been little discussion regarding what type of state RAMSI’s development activities were aiming to achieve. In April 2009, development objectives shifted again, as focus settled upon a RAMSI transition. Consequently, the principal objectives sought to foster “a peaceful Solomon Islands where key national institutions and functions of law and justice, public administration and economic management are effective, affordable and have the capacity to be sustained without RAMSI’s further assistance”.<sup>123</sup> Part of the sustainability quest concentrated law and justice development on the aspiration of “a secure, safe, ordered and just Solomon Islands society where laws are administered fairly regardless of position or status, giving due recognition to traditional values and customs”.<sup>124</sup> And only now, in the third phase, did the subject of what type of state was most suitable for Solomon Islands move rhetorically to centre stage.

RAMSI has managed the flow of the phases relatively well. That RAMSI is beginning to take into account existing Solomon Islands cultural norms and traditions is evidence of its ability to learn and change over time, particularly with the advent of the CO pilot project and evaluation and the Justice for the Poor’s study of justice delivered locally. These are encouraging signs of transformation, despite the apparent lack of interest within the SIG and the RSIPF to correspondingly undertake a comprehensive review of policing in Solomon Islands.<sup>125</sup> It would be further encouraging if, as these endeavours advance, they were explicitly linked to one another and the findings they generate were cross-pollinated. This would avoid the possibility of siloing, which has been a significant problem for RAMSI law and justice programming in Solomon Islands.<sup>126</sup> It could also prove instrumental with regard to advancing

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<sup>122</sup> *Mid-term review report, RAMSI law and justice program*, August 2008, Annex 1.

<sup>123</sup> *Ibid.*, p. 6.

<sup>124</sup> *Ibid.*

<sup>125</sup> The magistrates’ sustainability taskforce report, for example, is another positive indication.

<sup>126</sup> According to RAMSI and Australian Government documents, the problem of siloing was identified back in 2006, when it was stated, “at the broadest level, there remains a clear need not only to develop longer term strategic frameworks for the engagement, but also to ensure these are coordinated and consistent across all stakeholders, and widely disseminated and understood. At present, this coordination seems to take place at the most senior levels, but it does not filter through to operational or advisory program areas. As a result, individual programs and advisers do not necessarily understand where they fit in any overall jigsaw. This has impacts on how well capacity-building initiatives can be planned and managed at different levels”: *Capacity building through the Regional Assistance Mission to Solomon Islands (RAMSI) – A stocktake, phase II – law and justice sector*, 2006, p. 3. This observation was repeated in 2007 in an audit of RAMSI coordination, when it was noted that “notwithstanding the fact that working groups have helped lower level information sharing, the Australian

gender equality and quickly instituting RAMSI policies and initiatives that could support the amelioration of inequalities such as, most recently, the relative lack of female COs in the pilot project.

Whether these initiatives will have long-lasting effects remains to be seen, although the fact that they are being grounded in empirical analysis is more than a step in a positive direction. A 'back to the future' strategy, to which many interviewees referred, indicates that there is awareness of the need to ground Australia's support in a serious discussion about what might be the most suitable and appropriate structure of the SIG.

Even as a RAMSI transition is being initiated and development pursued, the SIG has still not articulated an overall direction or vision for how the institutions and agencies of the Solomon Islands law and justice spectrum are to be restructured and organised. While the articulation of overall direction is the sole responsibility of the SIG, Australian and RAMSI advocacy or support for the SIG to enunciate such a vision ought to exist, but it does not seem to be apparent. This is not to say that individual RAMSI officials have not engaged in numerous one-on-one conversations with their Solomon Islands colleagues. Rather, it is to suggest that there has not been a structured and consistent long-term effort to raise these issues and challenges.

As a result, RAMSI's law and justice programming is currently caught in a period of uncertainty, even as it continues to support law and justice development activities. A 2009 RSIPF review neatly summarises the situation, indicating the impossibility of determining "RSIPF resourcing requirements and operational constraints ... until issues like the policing model have been resolved in a way that clarifies the roles of community policing, customary law and women police officers".<sup>127</sup> The same applies to the judicial and court system because of the complicated multi-layered system that once existed within Solomon Islands.<sup>128</sup>

This period of uncertainty is deeply problematic and strongly suggests that it would have been more effective, efficient and better value for money if the strategic reviews (CO scheme and justice delivered locally study) had been initiated years earlier. As already argued, it is a lesson

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National Audit Office found that communication between the three programs at the lower levels is relatively weak. For example, one adviser was not aware of an activity being established in another program that may have facilitated the delivery of that adviser's own sub program": *Australian Audit of Solomon Islands Coordination*, 2007, p. 41. Problems with coordination and siloing persist if the findings of the gender study conducted in 2010 are any indication. During interviews, the study found out that "six of the 11 PPF areas interviewed had not seen, or did not know of, the Partnership Framework. Two more said it was not relevant to their work": Ferguson, Susan, *The looking glass: an assessment of capacity to deliver outcomes for women and men, girls and boys, through the RAMSI and AusAID funded aid programs of Solomon Islands*, AusAID, 2010, p. 49. Furthermore, "although the PPF sits within the SIG RAMSI Partnership Framework, accountability to the Framework is disputed at senior levels": p. 112. That the PPF is not included under the RAMSI law and justice program design document's umbrella suggests that the challenge has not been resolved. Siloing is also evident in that the JSCC, which is meant to be the 'peak governance, decision-making body of the Solomon Islands justice sector', does not include the Ministry of Police, National Security and Correctional Services or the RSIPF, key 'justice' actors.

<sup>127</sup> *Independent review of the RAMSI Participating Police Force's (PPF's) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, September 2009, p. 29.

<sup>128</sup> The colonial and immediate post-colonial system had village elders and chiefs as dispensers of law and justice at the lowest level. Above them were local courts, with their circumscribed jurisdictions. There were then three levels of 'state' courts—first and second level magistrates and then the High Court. Alongside this hierarchical structure were the courts that dealt specifically with land disputes, to which cases were brought from the local courts and from which appeals could be lodged with the High Court.

learned in law and justice development that these foundational exercises ought to be undertaken at the beginning of a postconflict support program, even when establishing stability and maintaining some level of law and order are the top priorities, so as not to consign law and justice programming into periods of uncertainty. What type of state may be best suited for Solomon Islands is not an issue that Australia and RAMSI should have politically and/or substantively allowed to have been put off for seven to eight years, as has happened, regardless of weaknesses within the SIG and its apparent reluctance to engage on these issues, as interviewees have indicated.

### **Programmatic relevance and models of development**

The real question, of course, is not merely what findings the ongoing reviews and strategic analyses will generate, but what to do with the completed analyses. It is here that questions of programmatic relevance arise. As already discussed, the primary approach RAMSI has adopted is the organisational capacity-building model, focusing upon the law and justice institutions and agencies of the centralised state, with a pronounced emphasis on Honiara.<sup>129</sup> This approach does not appear to be consistent with RAMSI's evolving objectives, supporting law and justice systems that are 'culturally appropriate' and uphold 'traditional values', which, by definition, implies proportionally less assistance for centralisation of the SIG within Honiara and markedly more for provincial, district and local providers.<sup>130</sup> It is also not consistent with the 2010 People's Survey—as already suggested above and will be further illustrated below—not to mention the findings of the CO evaluation or the preliminary findings of the justice delivered locally study.

According to the Justice for the Poor's justice delivered locally study, even as the systems of the centralised SIG are perceived to be legitimate and their assistance desirable, among the rural population there seems to be a strong desire for greater recognition of and reliance on local providers, which are based upon the traditional *kastom* systems. At the same time, according to the CO evaluation, the RSIPF's ineffectiveness and the run-down courts causes the CO to be perceived as:

*someone who can help prevent problems from escalating, provide general awareness, and connect broader governance structures where they exist. It was noted, that unlike the police, the CO is generally present in the community and has demonstrated a willingness to respect kastom and work closely with the chiefs.*<sup>131</sup>

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<sup>129</sup> To assert the primacy of the organisational capacity-building model and its primary focus on Honiara does not imply that RAMSI did not support initiatives that sought to increase service delivery outside the capital. For example, RAMSI's law and justice component has funded circuit courts, provincial consultations and establishment of a Tribal Land Dispute Resolution Panel. Nevertheless, the vast preponderance of Australia's support and contribution to RAMSI has been earmarked for the SIG's ministries and agencies, within Honiara, and aligned to a capacity-building model of development.

<sup>130</sup> It should be noted that RAMSI's overarching mandate has not changed, but that the Partnership Framework and other associated documents indicate an evolution in thinking and development approaches.

<sup>131</sup> Dinnen, Sinclair and Nicole Haley, *Evaluation of the Community Officer project in Solomon Islands*, draft report, World Bank, 2011, p. 20.

The wish for greater local control appears to be more than a perception that the centralised systems of the SIG are ineffective, foreign, expensive and slow, despite the recognition that SIG assistance is required, and often desired, to resolve many local disputes, as some of them are beyond the capacities of local providers. This is more than a challenge of 'local ownership', one that supersedes the ownership of development initiatives by 'national authorities'. The drive for local control is the desire for local groups, neighbourhoods and communities to 'take control over their own lives'—the yearning that is at the heart of the development process and intimately linked to questions of social efficacy. There is:

- “the widespread desire to reconnect with the larger system of government that is pervasive in rural areas”<sup>132</sup>
- a longing for greater local control
- an acknowledgement that the ministries and agencies of the centralised state are extremely limited.

Consequently, Australia and RAMSI ought to advocate with the SIG and strongly support efforts to develop linkages between local providers, provincial systems and the centralised SIG. These linkages and associations between the layers of government, and among service providers at the different levels of governance, will vary from area to area. What works on Isabel may not be appropriate or effective in Malaita; the relationships in Western Province will necessarily be different from those in Renbel and Guadalcanal. Unfortunately, this type of law and justice development is precisely what lies outside the repertoire of the organisational capacity-building model, with its narrow concentration on the institutions of law and justice as the principal beneficiaries of development.

All of this suggests that RAMSI will need, at least partially, to alter its development model. Equally importantly, Australia and RAMSI might need to advocate a position to the SIG about what a reasonable trajectory might be for the future of the institutions and agencies of the SIG, given that the centralised state personnel, for obvious political reasons, tend not to want to delegate authority and power to provincial and/or local providers. Furthermore, it is becoming increasingly apparent that Australia should direct a greater proportion of its support and its contribution to RAMSI to the local provision of law and justice at the provincial and district levels.

RAMSI's need to adapt its model of programming to the changing objectives and the country's varying contexts is more than simply initiating different types of capacity-building law and justice projects according to the terrain, for example in Honiara and rural Solomons where 85 per cent of the population lives and the Tensions germinated. Adaption suggests using varying development approaches and implementation vehicles in the differing environments and with regard to gender disparities.

RAMSI's reliance on an organisational capacity-building model, arising out of its very

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<sup>132</sup> Ibid., p. 41.

successful stabilisation efforts and its ongoing gap-filling assistance, may have been an appropriate initial strategy for the early moments of RAMSI's second phase. It may continue to have certain long-term viability for the Honiara-centric judiciary and courts and the RSIPF in Honiara. In the short to medium term, however, it may no longer be relevant as the principal model, given RAMSI's evolving objectives and the need to support locally based mechanisms that can function as the resilient bonds between and among the levels of government and the layers of law and justice service providers. In the short to medium term, therefore, it may be more useful to consider how one or more of the alternative development models—service delivery, problem-solving, and/or an encompassing thematic approach—might prove to be more effective in supporting law and justice delivery, particularly for the 85 per cent of the population living in rural areas of Solomon Islands.

This is not to suggest that the organisational capacity-building approach needs to be discarded in order to meet the evolving objectives. Rather, for the model to retain some level of validity, efficacy and value for money, greater discrimination in its use may be necessary. First, it is a question of proportion and balance. Given that a new balance between contexts is required for RAMSI's activities to remain relevant, the four development approaches need to be evaluated to determine which is most effective in each context. Second, taking into consideration RAMSI's evolving objectives, what percentage of Australian support ought to be directed towards building the law and justice institutions of the centralised state in Honiara versus assisting local justice providers whom are authorised by the state? Third, what are the links and relationships that may need to be strengthened between local providers of justice and safety and the RSIPF, the Honiara-centric judiciary and courts? Fourth, what are the relationships that can be fostered between national and provincial authorities and how do those relationships play through the differing types of law and justice providers at the national, provincial and local levels? These linkages may be the sinews of a law and justice system from which a resilient SIG can grow.<sup>133</sup> And fifth, which law and justice approaches are most suited to support what types of linkages?

Acceptance of the need to rebalance development approaches, resources and support activities to coincide with the changing objectives and varying terrains, however, raises a series of new questions about programmatic relevance. The Partnership Framework states that its objective is for 'key national institutions and functions of law and justice' of the SIG to have 'the capacity to be sustained without RAMSI's further assistance'. While it is optimal if the local providers of law and justice are authorised by law to provide public goods and services, they will not be 'national institutions', as conventionally defined. COs are, for example, not sworn RSIPF personnel, but rather respected members of their neighbourhoods and communities. The same applies to local court officials. Similarly, provincial authorities do not belong to 'national institutions'. If these local and provincial systems are to function effectively, they must remain local. Their legitimacy and accountability depend upon it too. That local providers are not national actors suggests that there is an imperative for not only RAMSI programming, if it were

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<sup>133</sup> Baker, Bruce, 'Linking state and non-state security and justice', *Development Policy Review*, 28, 5, September 2010: 597–616; Scheye, Eric, 'Redeeming statebuilding's misconceptions: power, politics and social efficacy and capital in fragile and conflict-affected states', *Journal of International Peacekeeping*, vol. 14, September 2010.



to remain relevant, to move out of Honiara and work on a much more local level. There is an equal requisite that an increasingly greater proportion of RAMSI staff will need to move out of Honiara to support efforts to strengthen the linkages between local providers and the centralised state.

Admittedly, this may prove difficult for RAMSI to achieve, but that should not prevent RAMSI's advocacy of such an approach to the SIG.

### **Realism and sustainability**

In addition to these sets of questions about the relevance of RAMSI programming to its evolving objectives, concern arises about the relevance of the objectives themselves. According to the Partnership Framework, the SIG's law and justice institutions are to be endowed with the "the capacity to be sustained without RAMSI's further assistance". More specifically, the RSIPF is to become "fully capable of carrying out its mandated functions ... [without] need of a permanent PPF presence".<sup>134</sup> This is a highly ambitious, deeply idealistic and perhaps unrealistic objective. At the very best, as the 2010 Report concludes, despite "significant achievements, RSIPF is many years, perhaps a generation, away from being capable of *independently* carrying out its mandated functions". It is also acknowledged that the "current [judiciary and court] system cannot be sustained when RAMSI leaves".<sup>135</sup> The issue is not the generational challenge per se. Rather, according to the opinion of virtually all interviewees, donor support—particularly Australia's support given that it is the predominant donor—will be required for the foreseeable future.

The only possibility for SIG to sustain its law and justice institutions—as they are currently structured, if they were to be significantly reconfigured, and/or at reduced levels of service provision—would be if the SIG were able to generate increased tax revenues from timber, fisheries and mining that, as already suggested, it has so far been unable to do, let alone efficiently spend. The RAMSI law and justice program design document implicitly acknowledges the situation, stating that "the lack of obvious significant economic growth prospects combined with the growing population suggests that the finances needed for expanding currently low levels of public sector service delivery are not likely to be forthcoming in the medium term".<sup>136</sup> The real challenge, however, is not about an expansion of services, but their sustainability at lower levels of service provision given population growth. Consequently, the probability of the SIG's law and justice institutions being sustainable without continuing international assistance is exceedingly remote. In interviews, RAMSI personnel readily conceded the point. Time after time, interviewees stated, in one way or another, that "nothing is sustainable here" or that the SIG is "not sustainable". Nevertheless,

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<sup>134</sup> *Partnership Framework between the Solomon Islands Government and the Regional Assistance Mission to Solomon Islands*, April 2009, p. 14.

<sup>135</sup> *RAMSI Annual Performance Report 2010*, pp. 4, 6. Later in the report the language regarding the RSIPF is more stringent: "Even if the financial resources available to the RSIPF were increased, and even if the Community Officer Scheme is extended, it is highly unlikely that the current standard of policing can be achieved in the face of the formidable geography and culture of Solomon Islands" (p. 23).

<sup>136</sup> *RAMSI law and justice program design document*, January 2011, p. 5.



RAMSI's Australian personnel exhibited a tendency to shy away from the implications of their statements—the imperative to rethink their law and justice objectives, politically and substantively, from top to bottom, so that they remain relevant to the intent of the Partnership Framework.

At the same time, it would appear that the SIG has been aware of and has been playing off RAMSI's and Australia's reluctance to confront the sustainability question. According to one interview, the Prime Minister of Solomon Islands publicly stated in March 2010 that there is little reason for the SIG to significantly increase its budgetary allocations and expenditures for law and justice, because Australia will continue to underwrite the costs. The primary challenge for Australia and RAMSI then, is not only the transition of law and justice budgetary responsibilities from RAMSI to the SIG, but rethinking what law and justice sustainability means for programmatic purposes so that program objectives are achievable.<sup>137</sup>

Currently, RAMSI subsidises approximately 66 per cent of the activities of the RSIPF.<sup>138</sup> There are no known precise cost estimates for the state judiciary, corrections and court systems, but it can be presumed that RAMSI contributes a similarly high percentage of their budgets.<sup>139</sup> Given Australia's contribution to RAMSI, what this means in real costs is that Australia is presently funding approximately 60–62 per cent of all law and justice expenditures in Solomon Islands. The issue, therefore, is quintessentially a political one: to what extent, in support of which law and justice services, for how much money, and for how long is Australia willing to underwrite the delivery of justice and safety in Solomon Islands?<sup>140</sup>

This is a question not only for the SIG, but for the Australian Government as well. As part of its fiduciary responsibility to its taxpayers, Australia needs to reach an internal decision on how it wishes to proceed in Solomon Islands. For what types of law and justice services will Australia underwrite the costs—a decision that has profound repercussions of how the nature and structure of the state of Solomon Islands will evolve and what that state will look like? For how long will Australia underwrite the costs? Five years, a decade? Two decades? Will Australian support continue to be funnelled through RAMSI's law and justice programs? Will Australia opt for a largely bilateral approach instead?

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<sup>137</sup> There is a distinct difference between an objective being programmatically and politically relevant. Programmatically, the objectives of the Partnership Framework may not be appropriate; at the same time, it is possible that they are politically important. During the interviews, however, this distinction was not broached and therefore its pertinence has not been further analysed or explored.

<sup>138</sup> According to a RAMSI study, "the level of external spending is estimated at SBD [Solomon Island dollars] \$131 million with the RSIPF budget being SBD\$79 million. The deduction from this is that external agencies are providing approximately two-thirds of the total resources for the policing and security function ... The largest external items identified—aviation and maritime support—account for nearly half of all police and security resources spent, and it is in these recurrent non-staffing expenditure categories where the largest imbalances between domestic and external resources are apparent. The RSIPF clearly considers aviation and marine support as a key PPF function, since the RSIPF and SIG appear to charter aircraft only infrequently and the RSIPF does not have a fleet of its own vessels capable of traversing the archipelago": *True cost of policing*, 2011, p. 8.

<sup>139</sup> Based on 2010 figures, a RAMSI official estimated that RAMSI pays for approximately 66 per cent of the budget for SIG's justice activities.

<sup>140</sup> One interviewee did pose the question: "what is the optimal/necessary level of subsidies for law and justice in the Solomons that Australia will have to undertake and, then, what is the partnership that will be required between SIG and Australia?"

The choices Australia reaches need to be negotiated with the SIG, as is currently occurring. They also need to adhere to and align with the espoused strategies and policies of the SIG. The essential argument, however, is that if the objectives of RAMSI and/or its successor organisation(s) are to be relevant to the context, the issue of sustainability needs to be replaced by the presumption that ongoing Australian support will be enduring and extensive.<sup>141</sup>

One of the hurdles that RAMSI programming will have to overcome in regard to the question of sustainability is accepting the severe resource limitations under which the SIG labours.<sup>142</sup> An Australian National Audit Office report observed, and repeated in various guises, that “RAMSI programs sometimes find it difficult to engage with their counterparts, often because the SIG counterparts lack staff, or the staff lack the necessary skills”.<sup>143</sup> More recently, the 2010 Report states that “capacity development has continued but, in the face of a very high proportion of professional vacancies and problems in retaining qualified and experienced personnel, the Technical Adviser model of capacity development has been unable to realise sustainable gains”.<sup>144</sup> Even the CO initiative is often seen through the lens of SIG’s resource deficit: “whilst the Community Officer Scheme is a welcome and promising initiative this will not solve the problem of the limited reach, and therefore trust, of the RSIPF”.<sup>145</sup>

Throughout the interviews, all Australian personnel, from each and every component within RAMSI, lamented the fact that the SIG suffered from severe capital scarcities (financial, logistical and human). These dramatic shortfalls are not the real issue, for they are endemic. Over the next couple of decades it is unlikely that the SIG will have the resources to ensure, for example, that there are sufficient numbers of skilled and experienced prosecutors working in rural areas. Similarly, it is doubtful that the RSIPF will be able to deploy officers and extend its effective reach throughout the country. It is questionable that magistrates will be available in requisite quantities or experience to adjudicate cases in all of the country’s districts in a timely manner.<sup>146</sup> Even if the SIG were able to hire sufficient numbers of personnel to staff its law and

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<sup>141</sup> The examples of the new prison and courthouse in Auki are telling examples of what an alteration of objectives entails. If donors, particularly Australia, were to indicate that their support for law and justice in Solomon Islands were to be enduring, both of the new facilities could be considered worthwhile investments, given the quality of their construction and the possibility that recurring maintenance costs over the coming decades may be low. If donors, particularly Australia, were to sharply reduce their support, the new facilities may not be ‘value for money’, given the difficulties the SIG would experience in maintaining them.

<sup>142</sup> The need for accepting realities is acute, as evidenced by the following statement in an independent review: “if the PPF requires a certain level of equipment to do policing in Solomon Islands, then it is reasonable to assume that the RSIPF requires something similar if it is to be effective into the future”: *Independent review of the RAMSI Participating Police Force’s (PPF’s) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, September 2009, p. 16. To assume that there is only one way for policing to be effective in Solomon Islands is fallacious. And to presume that the RSIPF can conduct policing—let alone should conduct policing—as the PPF does, is simply misguided.

<sup>143</sup> The Auditor-General Audit Report No. 47, 2006–07, Performance Audit: *Coordination of Australian Government Assistance to Solomon Islands, Department of Foreign Affairs and Trade and Australian Agency for International Development*, 2007, p. 43.

<sup>144</sup> *RAMSI Annual Performance Report 2010*, p. i.

<sup>145</sup> *Ibid.*, p. 3. The conclusion of the section on the RSIPF is more than illustrative: “without considerably more resources and legal reform RSIPF will also not have the capability to be located in or visit all areas of the nation” (p. 4).

<sup>146</sup> Reputedly, in 2010 the magistrates worked at the district courts on the island of Isabel for a total of five days.

justice institutions, the SIG does not possess the financial means to retain highly skilled personnel, such as lawyers, for the foreseeable future.<sup>147</sup> After a few years, the private sector typically hires qualified personnel away from SIG service. In short, these capital resource deficits will most likely be endemic to Solomon Islands for a generation, or two or three.

The challenge, therefore, is not the shortfalls per se. Rather than bemoan the deficits, the challenge is first—how to do more with *what exists*, what realistically will exist the day after tomorrow and so on, and second—how to support the SIG in *what it already does relatively well*.<sup>148</sup> Once again, this logic leads to proportionally increased RAMSI support to local law and justice providers, building the linkages between and among the levels of government and service providers. Working with and strengthening what exists and what is performing relatively well may be the most relevant objectives for RAMSI law and justice programming—a change in approach that the RAMSI law and justice program design document acknowledges and appears to be moving partially towards.<sup>149</sup> In other words, the task for Australia, other donors and RAMSI may be to accept the endemic nature of the deficits, and then support the development of law and justice structures and systems in ways that take into consideration the shortages.

More than anything, this development logic is an issue of Australia and RAMSI modifying their perspectives. The justice delivered locally study may help to propel a re-orientation. The CO evaluation certainly will, for it implicitly raises the issue of what is the right size of the RSIPF, even if the police review has stalled such discussion.<sup>150</sup> Why are over 1100 police officers required and not 1000 or even 800?<sup>151</sup> What tasks are they to be assigned to undertake? Which ones will have to be cut back or eliminated? Is it necessary for the RSIPF to have, for example, cybercrime, marine, anti-terrorism and community policing units, as RAMSI and Solomon Island officials insist it is? If they were to be imperative, perhaps Australia should not only fund the units, but staff them as well.

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<sup>147</sup> Vacancy rates within the judicial system have notably increased over the past two years: *RAMSI Annual Performance Report 2010*, p. 6.

<sup>148</sup> If this alteration of programming objectives were to be adopted, it would necessitate a change in how law and justice programs were designed. For instance, assessments of ‘what exists and what already functions relatively well’ would gain prominence and ‘needs assessments’ would no longer be the default model. AusAID has already identified the need for building on what already exists—“Ignoring what exists or assuming it is of no value is a recipe for failure, yet capacity development efforts often focus on what is wrong and needs fixing rather than on what is working and can be built upon. New systems and approaches should be adapted to suit local needs and build on existing locally developed processes”: *Generational change through capacity development: Australia’s role in supporting nation building*, draft, AusAID, Canberra, 2005, p. 8.

<sup>149</sup> “This design proposes that the program adopt a ‘strengths based approach’ to capacity development by concentrating on the inherent strengths of individuals, organisations, communities, groups, sectors or networks”: *RAMSI law and justice program design document*, pp. 21. The program design document correctly criticises programming that relies primarily on ‘needs’ and ‘gaps’ analyses (p. 22).

<sup>150</sup> The police review that has not occurred had five objectives—“the reform agenda will seek to: define the model of policing appropriate for Solomon Islands; restructure the RSIPF/establishment; define core-policing functions/activities (services); identify the true cost of services (budget options); inform the dialogue on limited and staged rearmament of the RSIPF”: *Independent review of the RAMSI Participating Police Force’s (PPF’s) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, September 2009, p. 2.

<sup>151</sup> It is claimed that, presently, the SIG does not wish to entertain such questions. While that may be an accurate assessment of the commitment (or lack thereof) of the SIG to engage politically, that fact does not obviate the need for Australia and its contribution to RAMSI to broach these issues and advocate for a cogent position. There is no doubt that Australia has a fiduciary responsibility to its taxpayers to broach the topic, regardless of SIG’s political stance.

If Australia, RAMSI and the SIG accept that sustainability is not a relevant objective for the current programming model, it would give space to several innovative options for addressing Solomon Islands' capital resource deficit. As interviewees noted, young SIG personnel could be retained for longer periods of time if the SIG, RAMSI and/or Australia were to award them scholarships for study abroad that bind them to public service for a fixed period of years. If the recipients complete their period of public service, their scholarships would be forgiven; if they leave public service prematurely, they would have to pay back a percentage of their awards. A scholarship project could be renewed year after year. It may also be prudent for RAMSI to encourage the SIG to explore the use of paralegals as a means of increasing access to justice and bolstering the linkages between the national ministries and agencies and locally delivered law and justice providers. Australia and RAMSI could advocate for and initiate a paralegal program, as has been done throughout Asia and Africa, even with the knowledge that most paralegal organisations are not financially sustainable in postconflict and vulnerable countries.

## 4. How effective are Australia's assistance strategies?

As suggested above, RAMSI's objectives have evolved, even as its overall mandate remains unchanged. Most likely, RAMSI's objectives will continue to be modified as the CO evaluation is taken on board and acted upon, the justice delivered locally study advances, and options are generated on how best to manage RAMSI's transition. This seems to be happening already with the formulation of a new law and justice program.

It is in relation to the anticipated transition that the achievements and effectiveness of RAMSI's initiatives are now in most need of being explored, so as to suggest possible changes if any are required. Thus, this section examines the findings of the most recent RAMSI Annual Performance Report (the 2010 Report) and the People's Survey 2010 in relation to the delivery of law and justice as public goods and services. The analysis of the findings raises a series of questions regarding the effectiveness of RAMSI's law and justice programmatic activities, how gender is taken into account to ensure equitable service delivery, and the ways in which RAMSI monitors and evaluates its activities, the relatively new KPIs notwithstanding. Additional issues include policy formation within the SIG, the relationship between SIG ministries and their operational agencies (particularly the RSIPF and CSSI), and the utility of a 'sector' coordinating committee, such as the JSCC. Lastly, questions pertaining to the beneficiaries of RAMSI's programming and their access to law and justice are raised.

### Outputs versus outcomes/results

The 2010 Report, as already noted, catalogues RAMSI's law and justice achievements which include the establishment of the KPIs themselves. In policing, excepting the RSIPF's successful management of security during the 2010 elections and the sentencing of a former SIG minister, for example, this catalogue of accomplishments consists almost entirely of outputs—number of staff trained, percentage of individuals possessing skills, buildings built, job descriptions written, and plans promulgated. This raises questions concerning the efficacy of RAMSI's programming *and* its monitoring and evaluation systems. The SIG may be more capable and stronger than it was, but the KPIs provide little evidence to indicate that the SIG's provision of law and justice has appreciably increased over the past few years. Furthermore, most of the KPIs are capacity-building measures, thus inadequate for determining whether RAMSI programming has been effective or efficient.

For example, among the KPI targets to determine whether the RSIPF is fully capable of providing safety and security without RAMSI assistance are adequate logistics, communications and budget; being recognised as a trusted and professional service; succession planning in place for senior leadership; a capacity-building plan; a review of legislation; and the establishment of a national crime prevention council and local crime

prevention committees.<sup>152</sup> All of these capacities are important and necessary, but none measures whether the RSIPF actually provides reasonable safety and security. Only few KPIs measure service delivery, and they include high-quality briefs with which prosecutors can appear before the courts, and increased willingness of women to report acts of violence.<sup>153</sup> In the Partnership Framework, of the 33 indicators against which the performance of the RSIPF is to be measured, only a small handful—perhaps three to five at best—can be seen as measurements of the day-to-day delivery of safety and security to the citizens of Solomon Islands. This is perfectly understandable, and reasonable, given that the primary model of development assistance has been the organisational capacity-building model, which must rely, almost exclusively, upon output indicators for monitoring and evaluation.

The identical analysis applies to the justice ministries and agencies, judiciary, court system, and CSSI. With respect to the justice ministries and agencies, judiciary and court system, only one KPI qualifies as a measurement of service: ‘legal services are fair and equitable’.<sup>154</sup> Of the 14 prison indicators none is service-oriented. Instead, they emphasise important capacity-building criteria, such as maintenance schedules, accredited qualifications of personnel, aligned whole-of-government strategies, and development of infrastructure.<sup>155</sup> Without question these are important indicators of a stronger and more capable institution. Once again, they are sensible indicators given that the beneficiaries of the organisational capacity-building approach are institutions. But these variables provide little data upon which to determine whether the institutions provide a better service for the citizens of Solomon Islands. They also, therefore, provide little to no data upon which an assessment can be made of whether RAMSI is producing value for money.

### **Delivery of law and justice**

If service delivery to the citizens of Solomon Islands were to be the principal criterion by which the performance of the law and justice institutions and the effectiveness of RAMSI’s programming were measured—the 2010 Report’s conclusions would be troubling. According to the section on the judicial service, the report concludes that RAMSI is “unable to report a coherent story about progress”.<sup>156</sup> The 2010 Report continues and observes, for example, that in 2009–10, the criminal justice system experienced an increase of over 40 per cent in prisoner time on remand, as well as in recidivism.<sup>157</sup> Neither of these indicators applies to a single institution within the criminal justice arena. Each reflects the performance of the activities of the entire criminal justice spectrum, suggesting that there may be an underlying deterioration

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<sup>152</sup> *Partnership Framework between the Solomon Islands Government and the Regional Assistance Mission to Solomon Islands*, April, 2009, pp. 14–24.

<sup>153</sup> *Ibid.*, pp. 23–23. The list of KPIs also includes “increased rate of successful prosecutions for domestic violence cases and other cases involving violence against women” (p. 23), which is an excellent indicator, but not one against which the RSIPF can be measured. The RSIPF do not have control over whether a prosecution is successful, as that depends upon activities outside the purview of the police and for which the police are not responsible. Instead, the indicator is a measurement of the criminal justice system as a whole and one against which the system should be measured and evaluated.

<sup>154</sup> *Ibid.*, p. 43.

<sup>155</sup> *Ibid.*, pp. 30–35.

<sup>156</sup> *RAMSI Annual Performance Report 2010*, p. 5.

<sup>157</sup> *Ibid.* The increase in remand times may partially have been due to the suspension of three judges on corruption charges.

of service across the arena. Interviewees with PPF and AusAID personnel suggested that the RSIPF sexual assault unit has a 10-year backlog of cases, a situation that the RSIPF, according to interviewees, strongly disputes.<sup>158</sup> Once again, this is not an indicator that suggests that weaknesses in performance apply only to the RSIPF, as sexual violence is a societal challenge and not merely a policing one. Limited to these three indicators and the aforementioned finding that citizens typically do not seek redress through the court system, there is credence to a presumption, albeit only a working hypothesis, that the criminal justice system—from prisons to police, police to prosecutors, prosecutors to courts, and courts to prisons—is not working well as a coherent system.

Regarding the RSIPF, the most recent People’s Survey suggests that the police may not be performing as well as desired by the SIG, RAMSI and Australia, a conclusion underscored by the 2010 Report’s observation that the RSIPF will not be able to meet its 2013 Partnership Framework objectives.<sup>159</sup> While there has been some improvement over the last year, the People’s Survey statistics suggest that public trust and confidence in the performance of the RSIPF has declined or stayed stable overall since 2007.

| Indicator  | 2007 | 2008 | 2009 | 2010 |
|--|------|------|------|------|
| % people reporting RSIPF treat people fairly and with respect        | 44   | 32   | 31   | 38   |
| % people reporting RSIPF do not treat people fairly and with respect | 16   | 21   | 26   | ≈19  |
| % people describing their community as safe and peaceful             | 51   | 37   | 30   | 31   |
| % people believing violence would return if RAMSI left soon          | 52   | 49   | 53   | 49   |

Furthermore, according to the People’s Survey, “the majority of people in all groups said that the RSIPF does not respond to calls for assistance ... [and] most groups reported no improvement in local police services to communities in recent years”.<sup>160</sup> Furthermore, very low percentages of respondents indicate that greater access to the RSIPF would improve their satisfaction in how to resolve their disputes.<sup>161</sup>

There appears to be a particular challenge in addressing the needs of women. While the data indicates little difference across all age groups between men and women in their assessment of their neighbourhood’s law and order situation,<sup>162</sup> young women, by a significant higher proportion, believe that they have ‘many problems’ compared to young men.<sup>163</sup>

<sup>158</sup> There is no way to assert that the backlog represents greater confidence in women referring matters to the law and justice system and reporting of sexual assault. This may be the case, but there is no evidence one way or another to support any such analysis.

<sup>159</sup> *RAMSI Annual Performance Report 2010*, p. 4.

<sup>160</sup> *People’s Survey 2010*, Australian National University, Canberra, 2011, p. 13.

<sup>161</sup> *Ibid.*, pp. 144–45. According to the survey, only 7.8 per cent of the urban population believed that a more prominent RSIPF presence would improve their satisfaction with how their disputes were resolved. In rural Solomons, the percentage was 11.2. There appeared to be only a slight differentiation between men and women: 10.5 compared to 9.5 per cent.

<sup>162</sup> *Ibid.*, p. 77.

<sup>163</sup> *Ibid.*, p. 77.



Simultaneously, many fewer young women, compared to young men, perceive they 'sometimes' have problems.<sup>164</sup> A tremendous difference exists between men and women with regard to their 'always' feeling safe within their community, at what time of day they feel safe, and whether they feel safe in their own household.<sup>165</sup> It is also evident that there are differences between men and women in asking the RSIPF for assistance. Women are less likely to ask, and the type of assistance required varies as well.<sup>166</sup> This is particularly true for young women compared to young men in cases of violent assault, with young women needing more police assistance: 52 compared to 35.2 per cent.<sup>167</sup> These gender differences call for greater exploration and analysis in order to address these gender disparities.

Overall, it could be argued that the presence of RAMSI and, in particular, the PPF skews the findings of the People's Survey. Simply put, the performance of the RSIPF cannot and should not be compared to the PPF. In popular perceptions, however, the two services are compared, especially when officers from the two services are seen together, which happens frequently. Empirically, however, the issue is not the specific validity of the statistic. As already mentioned, the People's Surveys do not assess specific RAMSI-supported initiatives; rather, they indicate the direction in which Solomon Islands as a country is moving. Therefore, what is important is the trend in which the data moves, assuming the reliability and overall consistency of the data.

### **Performance and models of development**

The dominant challenge then, is to explain why, over the last four years, the performance of the SIG's institutions and agencies has not significantly improved despite RAMSI's law and justice programming. In other words, why has RAMSI's law and justice programming not achieved more in strengthening the short- to medium-term (3–5 years) performance of the SIG's institutions and agencies? This is a very different question than whether the SIG's institutions have been strengthened, but it is the essential question to pose to determine the effectiveness of programming and assess value for money.

Without a doubt, one reason is that RAMSI's law and justice programming has primarily relied on an organisational capacity-building model of development. Though the law and justice institutions have been stabilised and are now functional, and their capacities have significantly increased, the People's Survey shows that this enhanced capacity has not spilled over and/or been translated into an overall improvement in the delivery of justice and safety to the citizens of Solomon Islands.

To enhance the performance of the SIG's institutions and agencies in delivering law and justice, it may be time to integrate other development approaches. Two examples are given below to

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<sup>164</sup> Ibid. It is unfortunate that the gender data is not further disaggregated by area (urban/rural), as this could provide the RSIPF with better data upon which to make strategic, managerial and operational decisions.

<sup>165</sup> Ibid., pp. 78, 79, 80.

<sup>166</sup> Ibid., p. 83.

<sup>167</sup> Ibid., p. 85.

illustrate the need, the first of which uses a problem-solving approach and the second, a service-delivery approach. However simplistic the two examples may appear to be on the surface, there is nothing easy to their implementation, which, under the best of circumstances, will be time and labour consuming.

First, according to the DPP and the PSO, a high percentage of case files submitted by the RSIPF have to be returned to the police as incomplete or inadequate. If representatives of the RSIPF, DPP and PSO were to study what in the case files needs improvement, the three agencies could readily devise a remedial project to strengthen the efficacy of the submitted files and, thereby, accelerate the delivery of justice. Following a problem-solving approach, the initiative would require an analysis of the weaknesses in the RSIPF's completion of case files. Without presuming what the challenges are, possible weaknesses might include police investigations, recording and recounting of witness statements, police file management, police report writing and prosecutorial/PSO understanding of police procedures. If problems were identified, a highly targeted project could be initiated with the three agencies working together in implementing potential solutions. Without doubt, the project would need to include organisational capacity-building elements—such as a new manual for preparation of police case files and associated training. Output measurements would record these capacity-building endeavours, creation of the new manual and the number of RSIPF personnel trained. Outcome/result indicators would be the increase in percentage of case files accepted by the DPP and PSO.

Second, in discussions with RAMSI officials it was revealed that the Honiara courts are choked with alcohol-related cases of disorderly conduct over the weekend, but because the courts do not sit on the weekend there is a significant judicial backlog. Again without presuming what the underlying issues are or what would be effective in Solomon Islands, this service-delivery challenge might be addressed by changing the detention and arrest policy of the RSIPF so that some forms of disorderly conduct pertaining to alcohol abuse did not result in weekend incarceration. If this were to occur, other socio-economic initiatives might need to be put into place that would seek to lessen the occurrence of alcohol consumption. Another possible (non-exclusive) approach, which proved highly successful in a number of Latin American countries,<sup>168</sup> could be the imposition of curfews on selected nights in identifiable neighbourhoods for locations that sold alcohol, and/or for particular individuals. This initiative would require the collaboration of the municipal authorities along with the agencies of law and justice. A third possibility (again non-exclusive) could involve the establishment of weekend court hearings and expedited weekend procedures for allegations of disorderly public behaviour due to alcohol consumption. Admittedly, such an initiative would need to address questions concerning changing court rosters and staff hours, and the religious convictions of some court personnel that may prevent them from working on weekends, along with the cost implications. Nevertheless, if one or a combination of such initiatives was to be successful, the backlog might be reduced, allowing for the timely exercise of justice for these and other cases.

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<sup>168</sup> The author investigated one such example in a city outside Sao Paulo, Brazil.

These suggestions for addressing alcohol-related cases of disorderly conduct over the weekends are complex initiatives, requiring SIG leadership. None of them is offered as a quick solution. Some of them would require policy development, and perhaps changes in legislation. Some would have serious cost implications. Nevertheless, each suggestion offers ideas for thinking through and addressing an identifiable problem. Each generates specific law and justice activities that Australia could support to improve tangible law and justice service delivery. They are offered not as concrete recommendations, but as illustrations of how Australia's support to law and justice in Solomon Islands and its contribution to RAMSI could re-focus from a capacity-building model towards service-delivery and problem-solving approaches.

Furthermore, RAMSI's support for these tightly defined projects could produce measurable outcomes/results, and therefore offer value for money. These focused projects might also be examples of how the SIG's institutions and agencies can learn to work together and coordinate concrete activities without the need for extensive and elaborate donor-supported coordinating structures. It should also be noted that in both examples, capacity-building elements are undertaken—new case file manuals and training for the RSIPF, expedited weekend procedures—but only in a concentrated way to address and ameliorate a tangible and immediate challenge. Once law and justice institutions have regained their feet, this type of capacity can be effective, efficient and sustainable.

### **A victim of its own success and dependency—PPF and RSIPF**

Beyond the challenge of integrating new models of development into its repertoire, RAMSI has also been the victim of its own successes, which has caused its programming to become relatively ineffective over time. Again and again, Solomon Island and Australian respondents observed that the expectations generated by the successful intervention and presence of RAMSI cannot be replicated or mirrored by SIG institutions and agencies.<sup>169</sup> Gap filling is an important stabilisation activity, as has already been noted, but it also leads to misplaced hopes or, as one senior SIG official summarised, "RAMSI has created false expectations". Additionally, because of RAMSI's initial successes, parallel law and justice systems have come into existence over time—the RAMSI system and its technical advisers working in line positions (for instance, prosecutors in the Tension Trials), and the SIG system.

This is a situation that is universally recognised and is particularly relevant with respect to the RSIPF and the PPF. "The perception is of the existence of two separate police forces in Solomon Islands. This perception consistently works to the disadvantage of RSIPF when compared to its PPF counterparts."<sup>170</sup> As one critic has noted, the parallel structures have colloquially been known as the:

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<sup>169</sup> This issue will be further explored below.

<sup>170</sup> *Independent review of the RAMSI Participating Police Force's (PPF's) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, September, 2009, p. 5.

*'O1 and O2 systems'. These originally denoted the country's first and second police patrol boat numbers, the old and the new. As was explained, "They both have the same functions, but the newer one is more attractive, is more effective, better resourced ..." O1 and O2 were used to illustrate a point about 'donor parallel systems'. O2 can have "big impacts on O1 over time, O2 can create a shadow on O1". In fact, "nothing much is expected from O1 so long as O2 is there, and soon O1 loses the need to try". Said a police officer from Munda, "If RAMSI police is there; everything stops. If RAMSI police are not there, then RSIPF makes no difference at all. They (people, criminals) just go on, do what they like. I wish I had a house like the PPF one. I wish I had a blanket like the PPF one. I wish I could have respect like this."*<sup>171</sup>

The perception of parallel police services has also created a culture of dependency within the SIG. The SIG judiciary and courts, for instance, cannot provide more than minimal services outside of Honiara without RAMSI paying for transportation costs. The RSIPF seems to conduct regular patrols within Honiara primarily in PPF vehicles.<sup>172</sup> Numerous interviewees—RSIPF, PPF and non-police respondents—indicated that the RSIPF policing style has become dependent upon and revolves around the vehicle. A senior RSIPF official observed that the service has become a cultural organisation whose people are not willing to go out on foot patrol. A RAMSI official echoed the observation, stating that "the RSIPF is in a feast/famine cycle of 'how do I get gas for my vehicle or wheels for my car?'" With 85 per cent of the Solomon Islands population rural, the roads of Honiara often unpaved and costly on vehicle maintenance, and the resource deficits of the SIG endemic, it is self-evident that a vehicle-dependent policing service in Solomon Islands is not only operationally and tactically inappropriate, but also fundamentally unsustainable. Simply put, it does not meet the needs of the population or correspond to the Solomon Islands context, a discussion that will be further explored below.

This challenge, however, is about more than SIG's dependence upon RAMSI's logistical and financial support and the expectations of service delivery held by the Solomon Islands population. Because of the overwhelming presence of RAMSI and its technical advisers, a RAMSI official observed that "the RSIPF cannot think of what should happen two to five years from now". In this sense, as many interviewees intimated, RAMSI's successes have "crowded out" the development of Solomon Islands law and justice institutions.<sup>173</sup> Additionally, RAMSI's presence, fulfilling the three roles it is mandated to undertake—development, operations and emergency response—has forged a work culture within the SIG reflected in the words of one interviewee who said, "why should I solve problems when there's the adviser who is paid so much?" The existence of this work culture cannot be transformed through a RAMSI-led 'transition', no matter how effectively a transition is undertaken. Rather, the approach that

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<sup>171</sup> Dinnen, Sinclair, et al., *Conflict in Melanesia: themes and lessons*, World Development Report 2011 background paper, 2010, p. 21.

<sup>172</sup> One RAMSI representative estimated that 80 per cent or more of RSIPF transport is paid for/provided by RAMSI.

<sup>173</sup> As one interviewee observed, "RAMSI has crowded out discussions about policy in about 80 per cent of the sector; there isn't really an interlocutor in this 80 per cent".

may be required is to 'wean' the SIG and citizens from the expectations generated by and services delivered by RAMSI.

### **Consequences of dependency and the politics of weaning**

The difference between a 'transition' and a 'weaning process' is not semantic. Weaning is first and foremost a political challenge, not a law and justice development one. An effective weaning process will depend upon explicit Australian political efforts and how they play through RAMSI, given that Australia funds upwards of 95 per cent of RAMSI's total budget, virtually all of RAMSI's law and justice programmatic costs and, consequently, approximately 60–62 per cent of all SIG's law and justice expenditures. This appears to be a political challenge that may be best tackled by a unified Australian-RAMSI approach—and all that implies for the Pacific Islands Forum.

The current leadership of the SIG,<sup>174</sup> according to one interviewee, is "showing little commitment, actually offering resistance to the transition in order to get what it wants from the [RAMSI] transition". From the perspective of the SIG, resistance is good politics and a rational choice given the magnitude of Australia's financial commitments. As a former RAMSI official observed, the SIG does not have to engage because "the donors will pick it up". The Prime Minister's public assertion of March 2010 that the SIG had little reason to increase its budgets and expenditures for its law and justice institutions because the Australian Government will supplement the shortfalls only underscores the SIG's pragmatism and political acumen. The rational negotiation strategy that the SIG appears to be playing is betting upon Australia's fear of potential instability in Solomon Islands outweighing its reluctance to continue to subsidise Solomon Islands law and justice development.

Despite high-level RAMSI engagement with the SIG discussing potential transitions and reduced funding, it is unlikely that additional political pronouncements about RAMSI's transition would perceptibly alter the current situation. Such declarations by RAMSI have been made on and off since 2005, and they may no longer be entirely credible. A precipitous withdrawal of RAMSI personnel and funding could potentially be destabilising and, therefore, may not be appropriate. Furthermore, given the dependence of RAMSI's law and justice programming on Australian funding and, in turn, SIG's law and justice dependence upon RAMSI funding, SIG policies are more likely to be influenced if Australia, not RAMSI, were to take the lead negotiating position on transitional challenges.

What could be convincing is if the Australian Government were to undertake a whole-of-government options exercise, outlining three potential long-term choices for continued Australian support for Solomon Islands. Each of the three options would specify Australia's belief in what type of state is most suitable for Solomon Islands. Following good donor practice, each option should adhere to and be aligned with elements of current SIG strategies

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<sup>174</sup> It is acknowledged that the SIG is not a monolithic organisation, but that it is composed of different institutions and organisations and varying political leaders, some of whom may have competing interests and political perspectives. Nevertheless, the term 'SIG' is used to refer to the broad spectrum and trajectory of policies, behaviours and actions that the law and justice ministries and agencies, as well as the current political leadership, have undertaken over the past few years.

and policies, as well as taking forward various components of the RAMSI law and justice program design document. Such an Australian initiative may be in its initial stages but, for it to be convincing to the SIG, it may be appropriate to allow SIG representatives to participate as observers of the internal Australian Government whole-of-government process. Although this suggestion may be untenable, the underlying argument is to open up Australian Government political processes in order for Australia to regain a level of credibility in the eyes of the SIG.

Among the additional reasons to permit SIG representatives to observe the Australian Government process is to invigorate SIG involvement in law and justice policy development, which appears to be weak and which renders RAMSI programming less effective than it should be.<sup>175</sup> Among interviewees there is near unanimity that law and justice development has become a ‘policy-free sector’ within Solomon Islands. One SIG official, when the subject was broached, conceded “that there is a policy vacuum” and a senior international representative decried the “conspicuous policy development deficit ... [with] not a lot of discussion had on ideas”.<sup>176</sup> Yet another noted that, with respect to the RSIPF, “what prioritisation [of activities the police] does undertake it does so with minimal direction from the government”. During a discussion of the evolution of policing objectives with a RAMSI official, a more nuanced view arose that while “every government has come up with policies for local [law and justice] providers, it has all come up to nothing”. From this perspective the apparent vacuum is also an implementation challenge. The apparent vacuum may be in the process of being gradually filled, although that is debatable, but what is not debatable is that since 2005 the SIG has not fully engaged in law and justice policy formation.

### **Absence of policy and ministerial engagement—policing**

There may be multiple reasons for the lack of policy formulation within the SIG beyond those already noted: resource deficits, political resistance by the SIG, RAMSI crowding out discussion, creation of unreasonable expectations and so on. With regard to policing, there is an additional probable cause—the apparent divide between the Ministry of Police, National Security and Correctional Services (MoPNSCS) and its operational agencies, the CSSI and the RSIPF.

The MoPNSCS is the centre of elected civilian control and accountability for a police service. The ministry is also responsible for establishing broad strategies, setting policies and determining budgets, which the police and prisons services are to operationalise day to day. It is also the governmental organ that is responsible for participating in whole-of-government policy discussions, and raising, advocating for and defending the needs and perspectives of its

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<sup>175</sup> For the RSIPF and PPF, “a major impediment [has been] the lack of a clear ‘policing model’ for Solomon Islands. No one the team spoke to was able to articulate the policing model. However, the team observed that there was confusion in the RSIPF and the PPF about the extent to which they should each be focused on ‘law’ and/or ‘order’. Without a clear sense of the policing model, it is very difficult for PPF and RSIPF to be sure that effort and resources are being directed in the right place”: *Independent review of the RAMSI Participating Police Force’s (PPF’s) capacity development of the Royal Solomon Islands Police Force (RSIPF): final report*, September 2009, p. 14.

<sup>176</sup> According to some interviewees, the current ‘policy vacuum’ within the SIG does not differ dramatically from what occurred prior to RAMSI’s intervention. While there may be validity to this assertion, RAMSI could have advocated and promoted greater policy engagement within the SIG.



operational agencies. Ministries frequently house inspection and internal affairs units in order to separate certain accountability functions from operational ones. This division of responsibility and labour produces a natural source of tension between the MoPNSCS and its police and prison services, and therefore the real challenge is not the existence of tensions but how they are managed.<sup>177</sup> It is unlikely that the normal tensions can be well managed if, as one senior SIG interviewee stated, “at the ministry, they are not too serious about things happening”.

Based upon the interviews conducted, it would seem as if a disconnect exists between the MoPNSCS and the CSSI and RSIPF, the evidence for which begins with the aforementioned policy vacuum. Given the consensus that the CSSI has become a model of successful development and assuming that the rise in prison incidents in 2010 is not an indication of future performance, the absence of clear ministerial policy directives and strategies does not appear to have affected the CSSI appreciably. Nevertheless, the disconnect is real and has hindered development and performance. For instance, it was claimed that the CSSI sought discussions with the judiciary and courts to examine the challenge of the increase of persons on remand. However, according to one interviewee, “when we told the courts that we are overcrowded on remand, the judiciary told us, ‘It is your problem’. And then the Ministry [MoPNSCS] did nothing”. It is the responsibility of the MoPNSCS to be the advocate for the CSSI within the Cabinet and across ministries, but it would appear that in this case that did not occur, for the challenge of remand remains and few concrete operational discussions within the SIG as to how to tackle the issue seem to have taken place.

The absence of clear policy direction for the RSIPF from the MoPNSCS is more acute. According to one SIG official, “the new police service strategy needs to come out of the wider Cabinet, but there is no discussion there. They are leaving it to the Australians”, an observation that echoes the public position of the Prime Minister on budgetary allocations for law and justice. Establishing and balancing police priorities is a political decision, albeit one that ought to be informed by in-depth policing analysis. The generalised lack of ministerial guidance since 2005, therefore, has left the RSIPF adrift as to what its priorities are to be and how they are to be balanced—law and order in Honiara, the lack of confidence expressed in the police by citizens, rural policing, land disputes, and/or what are widely acknowledged as the two most prevalent crimes, domestic violence and disorderly conduct due to alcohol consumption.

Part of the problem is that the PPF has been unable to engage with the MoPNSCS directly, until very recently, which has had deleterious results for issues of strategic vision, policy, budgeting and accountability. This is a situation that occurs frequently in donor-supported law and justice development, given that priority attention is usually given to operational security and safety concerns, i.e. to the police itself and its operational responsibilities. In Sierra Leone, for instance, the British have been largely unable to breach the walls of the ministry with any tangible effectiveness for almost a decade, despite their extensive justice and security program in the country. In Solomon Islands, an attempt to place a RAMSI adviser within the ministry

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<sup>177</sup> The RSIPF complains that it does not control its own monies and has little effective control over its personnel.



was made in 2010, but it appears that a series of misunderstandings and political considerations caused the ministry to reject the offer until late July 2011.

The issue, however, may be more than merely a question of serial misunderstandings, for RAMSI's law and justice component has very successfully engaged with and co-located advisers within the Ministry of Justice and Legal Affairs since 2005. The MoPNSCS, for instance, does not appear on the RAMSI website with regard to the RSIPF or law and order, suggesting that RAMSI does not consider the MoPNSCS to be of vital importance for police development.<sup>178</sup> This perception may be inaccurate, but if RAMSI police support is to produce results, it is imperative to work effectively with the MoPNSCS and necessary political efforts need to be made by RAMSI to solidify the relationship.

Above and beyond the need for the MoPNSCS to take the lead in conducting a thorough policing review, as the highest elected civilian authority responsible for law and order, a new police law is a top priority. The Solomon Islands Parliament passed a new corrections law which, according to interviews, has had positive results across the board, but especially with regard to strategy, accountability and staff discipline. Unfortunately, as of June 2011, similar efforts for policing have proven to be futile, which indicates a disconnect between RAMSI and the MoPNSCS, as well as between the MoPNSCS and the RSIPF. RAMSI is currently providing assistance in drafting a new law, but the development of new legislation cannot be the task of a single adviser. It requires full RSIPF and Cabinet participation. More than delineating the respective responsibilities of the MoPNSCS and the RSIPF on questions of accountability, discipline, workforce, budgets and so on, the legislation ought to point the way to the future of policing in Solomon Islands.<sup>179</sup> Its formulation needs to be tied carefully into the current police review that is being conducted. Interviews suggest, however, that this may not be happening to the extent and depth that may be most effective and productive, in part because of the divide between RAMSI and the MoPNSCS.

### **Coordination and sectoral approach**

Interviews also suggest that in-depth discussions within the SIG on the legislation may not be occurring. Part of the challenge is that the most logical vehicle for discussion of the proposed new law is the JSCC. Unfortunately, the MoPNSCS, RSIPF and CSSI are not constituent members of the committee, a clear indication that there exists an underlying problem of siloing, first within RAMSI's support for law and justice programming, and second within the SIG. According to the 2010 Report, until recently, the JSCC (established in 2006) has not been an effective mechanism for law and justice development. One SIG representative observed that prior to mid-2011 the Cabinet had not recognised the coordinating committee, the Attorney

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<sup>178</sup> It should be noted that this may be a generic weakness of Australian law and justice programming, given that there has been almost no Australian support for the Papua New Guinea ministry responsible for civilian control of policing, despite decades of Australian assistance dedicated to police development.

<sup>179</sup> The need for a new police law to address disciplinary issues within the RSIPF cannot be underestimated. It was reported that absenteeism is a chronic problem within the RSIPF, but the senior personnel are hindered in trying to remedy the situation through disciplinary action without a new police law. If the RSIPF and RAMSI had perceived absenteeism to be a problem, then its solution through passage of new police legislation may have stimulated greater urgency and engagement substantively and politically, because it would have required ministerial and Cabinet support.

General never attended and the Ministry of Justice had not taken an active role in policy issues.

This lack of active SIG involvement on the JSCC may have been an expression of government resistance to law and justice development. The past history of the JSCC may also have been due to SIG's learned dependency on RAMSI, financially and substantively, not to mention the number of foreigners functioning with line authority as part of RAMSI's continuing gap-filling assistance. According to a RAMSI law and justice official who had participated in numerous JSCC meetings, discussions within the JSCC had been mainly about external support and not substantive issues. From the perspective of the SIG, the purpose of the JSCC had been primarily a mechanism of extracting resources from RAMSI, rather than a Solomon Islands whole-of-government coordinating vehicle. This appeared to be the case because when a RAMSI official suggested in early 2011 that there was no longer a reason for RAMSI personnel to attend JSCC meetings, a number of SIG committee members urged the continued involvement of RAMSI. Consequently, as part of its political efforts to wean the SIG off its dependencies, one of the first steps would be for RAMSI personnel to no longer attend JSCC meetings, which seems to have occurred since the team conducted its field research, a change that this review wholeheartedly endorses.<sup>180</sup>

Even as, since mid-2011, the JSCC's role appears to be changing, RAMSI's past support for the JSCC may have been misplaced. As already mentioned, the principal objective of the JSCC was, and continues to be, to provide a forum for the SIG to discuss, coordinate and reach decisions upon the country's justice issues narrowly defined (given the absence of the MoPNSCS, RSIPF and CSSI), enabling it to harmonise strategies, policies and planning timelines across the sector and thereby undertake effective programming. There is little evidence, however, that 'coordinated' strategies, policies and/or plans were generated by or through JSCC meetings or that the operations of the JSCC resulted in improved service delivery to the citizens of Solomon Islands. As part and parcel of organisational capacity-building strategies however, these committees have become ubiquitous tools in law and justice programming, with donors urging their establishment and funding them in almost every context, despite the lack of evidence.<sup>181</sup>

The problem with JSCC-type fora is that the institutions of the law and justice arena do not

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<sup>180</sup> RAMSI personnel were never eligible to be full members of the JSCC. RAMSI attendance was dependent upon a JSCC invitation to participate as an associate member, observer and/or guest. There may be other reasons the JSCC has not been an effective vehicle for law and justice development, such as the endemic resource deficits that plague the SIG. A SIG official also argued that active SIG participation on the JSCC is limited because committee members observe a protocol that accords deference to the Chief Justice, thereby hampering the free flow of discussion.

<sup>181</sup> An evaluation of the Papua New Guinea Australia law and justice program, it appears, will be recommending that AusAID assistance to the Papua New Guinea Government and law and justice service providers be separated from the mechanisms (the coordinating committee) by which the Papua New Guinea Government coordinates its law and justice strategic vision, policies and planning functions. In Colombia, a JSCC-type committee was established and its effectiveness was similarly minimal. Part of the problem in Colombia was that each law and justice institution thought that it was 'the owner' of the sector and that donor funds given to any other institution were perceived, essentially, 'to be stolen' from its coffers. Furthermore, each institution declared that it was independent and autonomous, and therefore could not actively participate in trust fund discussions. For the courts, prosecutors and auditor general, this claim has legal validity. For all three, the claim that they are not 'members' of the government and thus could not participate also carries legal weight, even if the purpose of each institution for making these claims was primarily to extort more money from the trust fund for their own corporate use. This information is based upon interviews conducted by the author in Bogota, Columbia, with Colombian government officials from all major law and justice institutions (excepting the police), European Commission staff, donors and civil society organisations.

really comprise a 'sector', as is evident given that the MoPNSCS, RSIPF and CSSI are not constituent members, even though they are 'justice' actors by all definitions of the term. Furthermore, building the capacities of 'the sector' as a sector, a hallmark of the organisational capacity-building model, is a misguided approach. It is more than evident that the institutions have to work together to deliver justice and safety services. Police, prosecutors and judges, for instance, must work cooperatively when it comes to codes of procedure and bail, for instance. On issues of bail, parole, prisoner release and criminal intelligence collection, prison and police services need to cooperate. Who the police detain, how and when, will have profound effects on prosecutors, court administration and judges. But needing to collaborate on concrete law and justice activities, on discrete issues and challenges, and on implementing targeted initiatives, does not necessarily imply and/or constitute a sector, such as exists in education, health care, water and sanitation. The courts and, in many countries, the prosecutorial agency are independent and autonomous bodies. They are not institutions of the government of the moment, as are the police, for instance, despite the acknowledged fact that the policies and actions of one justice institution and agency fundamentally affect those of their colleagues. Their interdependence does little to dispel the reality that all the institutions and agencies of the law and justice spectrum have very different work cultures and values/norms. They also have differing and often competing corporate/organisational self-interests. While this may be true of other sectors, such as health and education, the degree to which this occurs within the law and justice sector is more extensive.

The list of discrete law and justice issues and problems may be endless, but the challenge confronting law and justice development is to resolve these concrete 'problems', and there is little evidence that JSCC-type coordinating fora necessarily expedite solutions. This appears to be the case in Solomon Islands. For example, within the JSCC there has been surprisingly little practical discussion on how to resolve the circuit court backlogs. The JSCC could easily have recommended sending magistrate personnel to a district to stay for a period of two to three months so that the court can progressively reduce the existing backlog, rather than have them travel to distant courts for periods of only a few days, which not only seems to have little practical consequence, but also may incur higher costs. Another possible initiative to address court backlogs that the JSCC could have discussed was to re-examine whether individuals detained for certain social behaviours—public drunkenness, for instance—ought to be detained or whether there is a less onerous and more effective method. According to a senior RAMSI official, it has been only in the last month or two that the JSCC has made a tough decision, one that necessarily requires a trade-off between competing priorities and takes into account endemically scarce resources and financial constraints. Perhaps this is a sign of the JSCC's future efficacy, but it is a healthy development that RAMSI personnel no longer participate in regular JSCC meetings.

Consequently, it may be more effective for RAMSI, in partnership with the SIG, to employ a problem-solving approach, tackling one challenge after another sequentially, while the JSCC independently meets, discusses and broadly decides upon SIG's law and justice strategies, policies and plans—excepting the police and prisons. Similarly, Australia and RAMSI should separate all their funding decisions from the functioning of the JSCC, other than, of course, aligning them to the broad contours of the strategies, policies and plans that may emerge from

the coordinating committee's discussions.

Instead of talking about whole-of-government approaches, RAMSI should advocate for and support, for example, prosecutors, police and public solicitors sitting together in a discrete taskforce to improve the quality of police case files. Justice may be better served and tangible outcomes/results produced, and the respective institutions and agencies will have learned how to work together in actuality. Producing a concrete result may help instil a work culture between and among the institutions, and a sense that collaboration produces positive results. Once one result is achieved and the possibility of a collaborative work culture is glimpsed, a second 'problem' could be addressed, such as weekend court hearings using expedited procedures. In time, it may be possible to produce a 'virtuous cycle', whereby the institutions and agencies of law and justice see one another as collaborative partners. Even though this approach contravenes orthodox OECD DAC policy guidelines<sup>182</sup> and does not coincide with an organisational capacity-building approach, this model of law and justice development aligns better with and is more relevant to the Solomon Islands context of severe resource deficits.

### Addressing local needs

Approaching law and justice as a series of concrete challenges, whether in a problem-solving or service-delivery manner, may also begin to address another one of the reasons why over the past few years RAMSI's efforts and Australia's contribution in Solomon Islands have been less effective than hoped. As already noted, the most recent data from the 2010 Report and People's Survey suggest that the organisational capacity-building model used by RAMSI has not effectively met the needs of the population. This is because the beneficiaries of a capacity-building model are the institutions of law and justice rather than the population.

While the indicators of the Framework Partnership tell the conceptual story about capacity building and beneficiaries, in relation to operations the 2010 Report concludes that:

*the People's Survey shows – and most police are acutely aware – that most of the issues which concern ordinary people on a day to day basis relate to anti-social behaviours. Although serious crime has decreased, kwaso brewing,<sup>183</sup> drunkenness, petty theft and social disturbances have all increased and women feel less safe than men in such an environment.<sup>184</sup>*

While all the capacity-building work that RAMSI has been undertaking to strengthen the back offices of the RSIPF is crucial—and perhaps a precursor of development that can eventually lead to improved service delivery—it has not addressed these day-to-day priority issues of the

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<sup>182</sup> *OECD DAC handbook on security system reform: supporting security and justice*, OECD, Paris, 2007, pp. 88–89; see also UN Department of Peacekeeping Operations, *Justice components in UN peace operations*, UN, New York, 2009, where, echoing the handbook, it is stated "justice components can support national authorities in establishing an effective coordination mechanism to design and implement national reform strategies" (p. 4).

<sup>183</sup> Kwaso is a homemade alcohol, which was only recently concocted in Solomon Islands. Kwaso is reported to be extremely potent and the drinking of kwaso the source of public disorder.

<sup>184</sup> *RAMSI Annual Performance Report 2010*, p. 3.

population. This does not question the need for RAMSI's support in building the RSIPF's logistics, asset management, budgeting and human resources capacities or the efficacy of the technical advisers who have supported that development. The same holds true for RAMSI's justice efforts—in the courts, the various agencies and the CSSI. This report, however, does query the ways in which RAMSI has proportioned, balanced and blended its support activities—largely, as the conclusions of the 2010 Report and the People's Survey suggest, focusing on institutions as the beneficiaries.

The RSIPF, for instance, is not sufficiently addressing what matters most to the people of Solomon Islands. It is not surprising, therefore, that the people's trust and confidence in the police has not risen over the last four years, which also does not reflect well on the effectiveness of RAMSI programming.<sup>185</sup> The same holds true with regard to the CO evaluation, whose findings indicate that one of the key roles of the COs is “as the first link in a chain connecting rural Solomon Islanders to national courts”.<sup>186</sup> It is clear, then, that more RAMSI support needs to be directed to fortifying that first link.

Consequently, the PPF and law and justice component, in partnership with their respective agencies, need to participate jointly, so that there is “more tangible evidence of growing government presence and activity in rural areas”<sup>187</sup>—the activity being the concrete delivery of a public good and service: justice, safety and security.<sup>188</sup> If this avenue were to be pursued, the COs could become an incipient paralegal organisation(s), varying from area to area—an initiative that would require significant support from all components of RAMSI equally.

During discussions with RSIPF personnel, at headquarters and at police stations in Honiara, time and again it was reported that the most frequent complaint brought to the police was public disorder/disturbances related to alcohol and domestic violence. Time and again, PPF personnel claimed that the RSIPF is sufficiently well versed in dealing with serious crime, other than domestic violence and rape. There was very limited discussion, however, of how the RSIPF could address the issues, which are foremost in the lives of the citizens of Honiara. Nevertheless, confidence in the police, as RAMSI officials acknowledged, can be enhanced through greater police visibility in the neighbourhoods in which people live and work, which means foot patrols. Travelling through a neighbourhood in a vehicle decreases the visibility and accessibility of officers. Although the RSIPF does ‘high visibility patrols’ in downtown Honiara and selected hot spots, interviewee after interviewee acknowledged that the RSIPF does not conduct regular foot patrols within Honiara, which may be of particular importance to women—though that is only a hypothesis which would need to be tested.

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<sup>185</sup> Political imperatives may demand that a range of services be required of the RSIPF to meet the needs of different populations living in varying geographic areas of Solomon Islands—Honiara, economic enclaves, provincial capitals and rural zones.

<sup>186</sup> Dinnen, Sinclair and Nicole Haley, *Evaluation of the Community Officer project in Solomon Islands*, draft report, World Bank, 2011, p. 43.

<sup>187</sup> Ibid.

<sup>188</sup> How that support is to be apportioned depends upon the findings of the justice delivered locally study.

Furthermore, it was reported that some neighbourhoods in Honiara have established various types of community committees and watch groups, in most of which women play the primary role. However, it was claimed that the RSIPF is not regularly seen in these neighbourhoods or does not work consistently with these watch groups. Responsibility for this lack of physical presence cannot be ascribed solely to RSIPF dependence upon vehicles and the PPF. It is more a question of the management of the RSIPF and the lack of policy direction. It may also have to do with the fact that an organisational capacity-building model tends to be gender neutral, not according existing gender disparities and inequalities their due weight. Similarly, an organisational capacity-building approach may not take into account, as much as it should, differences between the genders in how they perceive law and justice service delivery. Women have, for example, complained about the physical condition of police stations/posts not being welcoming or conducive to women who report cases of domestic violence and rape.

When these issues were raised with the RSIPF and RAMSI personnel, the response tended to be that the police do not have sufficient resources, for instance, to institute foot patrols in Honiara or support neighbourhood groups. As already argued, the lack of resources is and will be an endemic condition and the issue is how the RSIPF can and will, with RAMSI support, produce outcomes/results with what exists. One way to maximise existing resources and skill sets is to reduce the number of different units within the RSIPF<sup>189</sup> and prioritise a select and limited number of activities. Above and beyond serious crimes defined generically, this implies that the two most prevalent public complaints should garner the most resources—domestic violence and public disorder/disturbances related to alcohol. Capacity building would then be targeted to supporting the ability of the RSIPF to achieve concrete outcomes/results in these areas. If achievements can be produced in a few neighbourhoods that are identified as being committed to promoting the success of the RSIPF, these communities can be used as exemplars for other communities, illustrating how the RSIPF and local communities can work together.

In addition to reordering RSIPF priorities and working more closely with cooperative communities, another way to have RSIPF and local communities to work more closely together would be to redesign the RAMSI/PPF-supported Children and Youth in Conflict with the Law project (phase II), being implemented by Save the Children. As originally intended, one of the components of the initiative is to establish crime prevention councils in 50 areas, with a particular focus on young people.<sup>190</sup> However, based upon interviews with project personnel, the councils appear to be largely ad hoc organisations more geared to awareness raising and providing activities for young people than directly addressing crime prevention per se. Furthermore, as an interviewee stated, these crime prevention councils, as currently

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<sup>189</sup> For example, the RSIPF has a community policing unit comprised, it was reported, of four persons. Such a small unit has very little value for money in a country the size of the Solomons. Furthermore, it was explained that the primary responsibility of the unit was 'community outreach' and dissemination of information within the RSIPF. The values and philosophy of community policing *must* be the core principles of the RSIPF, but the philosophy of community policing cannot and should not be conflated with the activities, tactics and operations of a stand-alone community policing unit.

<sup>190</sup> The other project objectives relate to promoting diversion, facilitating better processes for children and young people as they progress through the formal justice system, and assisting children and young people with positive reintegration into communities after imprisonment.



envisaged, may or may not be directly tied to local law and justice actors (e.g. local courts, COs), the RSIPF or the local chiefs, despite the project's original intentions and objectives.

If councils are not directly associated with local providers, in effect they constitute the establishment of a parallel law and justice structure, which is, by definition, duplicative. Furthermore, as indicated by the interviewee, the funded activities will not necessarily deliver a concrete law and justice service or attempt to resolve a concrete community problem, despite the stated intention that the local programmatic initiative is to dissuade young people from engaging in crime. Although awareness raising, along with other associated endeavours, is an important undertaking, and despite the laudable intentions of the project, one lesson learned is that lasting outcomes/results are produced if, and only if, awareness raising takes place through and/or is directly tied to the delivery of a concrete service or resolution of a narrowly defined communal problem.<sup>191</sup> At the same time, in Solomon Islands, it appears that donor support of civil society organisations experiences comparable challenges to those pertaining to the provision of assistance to the SIG, which only further underscores the need to move away from an over-reliance on a capacity-building model of development.

Another practical effort RAMSI could support the RSIPF to do is reorganise RSIPF deployment schedules as a discrete project within Honiara. While RSIPF personnel appeared aware of when incidents were most likely to occur in their areas of responsibility—i.e. what days and when during those days—it does not appear that police personnel are deployed adequately to meet operational contingencies on the ground. It also did not appear that police personnel perceived the connection between incident frequency, the need for more police, and deployment schedules. This relationship is a key middle management skill and the acquisition of it, along with the RSIPF's ability to modify deployment schedules to meet needs, would be a key step in building the organisation's capacities and producing value for money.

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<sup>191</sup> See Bordat, Stephanie and Saida Kouzzi, 'Legal empowerment of unwed mothers: experiences of Moroccan NGOs', in Golub, Stephen, ed., *Legal empowerment: practitioners' perspectives*, International Development Law Organization, Rome, 2010, where it is argued, "the experience of [Moroccan] NGOs working with unwed mothers illustrates how knowledge of the laws alone is not sufficient. In order to access their rights, people need concrete help in navigating government services and bureaucracies ...". After 10 years of international funding to NGOs in Sierra Leone, for example, there is little to no evidence that the monies spent on awareness raising have produced sustainable results, other than a proliferation of local NGOs dependent upon donor funds.



## 5. Is gender as a cross-cutting policy objective being addressed?<sup>192</sup>

As discussed throughout the sections above, in Solomon Islands there are disparities between men and women with regard to law and justice development across a range of issues and challenges. Given this inequality, it is surprising that the post for a gender adviser within RAMSI had been vacant for an extended period of time and has only recently been filled, although only on a temporary basis.

One of the more pronounced gender challenges, as already discussed, is domestic violence. The RSIPF has repeatedly identified domestic violence as one of the two most prevalent complaints citizens reported to the police. While the PPF argues that the RSIPF are well versed in handling other ‘serious crimes’, gender-based violence is a category of serious crime in which the police are not well skilled and do not provide adequate service. Despite the existence of a special RSIPF unit, and regardless of policies and strategies across the SIG’s law and justice agencies, there seems to be little consistent or cogent policy within the RSIPF on how to tackle gender-based violence. Consequently, RAMSI should vigorously advocate that RSIPF elevates gender-based violence, and in particular domestic violence, to one of its two or three top criminal priorities.<sup>193</sup>

At the same time, it would be appropriate if gender inequality and domestic violence became an organising theme around which Australia’s contribution to law and justice programming in Solomon Islands would revolve. The reason is straightforward. The RSIPF cannot ‘solve’ or significantly reduce the overall incidences of domestic violence and rape acting by itself. Gender inequality and gender-based violence are political, socio-economic and cultural problems and can only be addressed thematically, in a whole-of-government manner. According to a recent study, what is required in fostering gender equality is “to better address local level realities, socio-cultural challenges, and political hurdles that women face in their struggle for justice”.<sup>194</sup> Juridically and legislatively, one of the many initiatives that needs to be brought to bear is a strengthening of domestic violence laws, given that there are no specific offences for domestic violence in the penal code. What the RSIPF can and should do is be a pivotal participant in tackling gender-based violence, if not adopt a leadership role in confronting the challenges. What its activities cannot do, however, is revert to the

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<sup>192</sup> An audit of Australia’s gender policies and activities has recently been conducted: Ferguson, Susan, *The looking glass: an assessment of capacity to deliver outcomes for women and men, girls and boys, through the RAMSI and AusAID funded aid programs of Solomon Islands*, AusAID, 2010. This report will not restate information in that audit, but instead will explicitly concentrate on gender violence, which is only one subset of gender programming. It should be noted, however, that there appears to be an acute need for RAMSI and AusAID to deploy gender specialists, positions that as of June 2011 were reported to be vacant.

<sup>193</sup> This is not a new suggestion. In 2008, it was recommended “that gender-based violence be approached in a multi-sectoral way”: Moyle, Sally and Kristie Druzca, *Measuring progress towards gender equality in RAMSI*, p. 2. The *RAMSI law and justice program design document* also urges that there be “a greater focus on gender issues” (p. 21).

<sup>194</sup> Chopra, Tanja, *Improving women’s access to justice and security in Somaliland: operational paper*, UNDP Somalia / Rule of Law and Security Programme, 2011, p. 3.

organisational capacity-building model. Instead, it is suggested that they ought to be integrated into a thematic approach,<sup>195</sup> which extends beyond the RSIPF to include support for “local stakeholders (women in communities, women’s NGOs etc.) to contest negative practices and to choose alternative and more suitable justice institutions in order to impact systems in the long term”.<sup>196</sup>

Formally, the RSIPF has a policy to process all domestic violence complaints, but interviewees suggested that this policy is not strictly followed. They indicated that RSIPF personnel evaluate the seriousness and severity of the incident and process only those cases that are deemed to be egregious. The other cases are referred to and handled through local law and justice systems and their providers, namely the chiefs and village elders, with the police acting as intermediaries, mediators, and/or arbitrators depending upon circumstances and the skills and prestige of the police involved. Although this method of addressing domestic violence may not be optimal, it may correspond to what the RSIPF does best, as interviewees repeatedly observed, and may coincide with the existing resources of the Solomon Islands criminal justice system.<sup>197</sup> The challenge for RAMSI is to determine how to assist the RSIPF to improve its performance in what it already may do as well as possible and then, in conjunction with Australian support, extend and broaden its assistance in a thematic way across the whole of the SIG.

To develop further what the RSIPF already does relatively well entails RAMSI supporting police officers in how better to take the initial domestic violence complaint and discriminate between egregious cases that need to be processed through the RSIPF and those that can be handled through local mechanisms. This is not about generic human rights training, but rather about improvement of complaint intake, communication, and mediation/dispute resolution skills, practical policing capabilities which are among the most crucial to improve citizens’ confidence in the police and produce value for money. Using a thematic approach, RAMSI could advocate for and support a process by which the vast preponderance of training in and implementation of these specific policing skills and organisational capacities throughout the RSIPF focus on domestic violence. Similarly, in order to process those domestic violence cases within the RSIPF, incident/report writing, file management and case file training could also be designed to concentrate on domestic violence examples. The same would apply to data analysis at RSIPF headquarters on how reported cases of gender-based violence are handled, pursued and cleared, and case files turned over to the DPP. Similarly, if there were to be a

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<sup>195</sup> In Sierra Leone, a country burdened by the resource deficits comparable to (though less severe than) those of Solomon Islands, a capacity-building approach to gender violence has proved to be a stunning failure. A separate Family Support Unit was established within the police, which was well trained and, comparatively speaking, well equipped. The unit had strong morale and international support. In 2009, however, despite years of building its capacity, not a single person accused of rape was convicted. Acknowledging the limitations of an exclusive capacity-building model, however, is not meant to suggest that all capacity-building initiatives related to gender violence are ineffective. Rather, it suggests that a thematic approach may be more appropriate as it integrates capacity-building elements into an overall strategy.

<sup>196</sup> Chopra, Tanja, *Improving women’s access to justice and security in Somaliland: operational paper*, UNDP Somalia / Rule of Law and Security Programme, 2011, p. 4.

<sup>197</sup> A Domestic Violence Bill is reputedly being drafted by the Ministry of Women, Youth, Children and Family Affairs. An early draft of the legislation proposed to give chiefs jurisdiction in domestic violence cases. However, during consultations with the High Court, this proposal was rejected.

dedicated project on better preparation of police files for handing over to the DPP, that training could use domestic violence cases as teaching examples. This is the underlying logic of a thematic approach, targeting capacity building on discrete skills that are required to improve performance on a single theme *and* using that single theme as the foundation upon which other capacity-building endeavours are designed.

If gender inequality and gender-based violence, specifically domestic violence, were to become a theme for Australian law and justice development, there are other possible avenues by which RAMSI and Australia could support programming that lie outside the criminal justice system (as narrowly defined) and involve law and justice development broadly. An entry point for programming on gender inequality and gender-based violence could revolve around how girls and boys can learn to defend themselves against violence, and this is a suitable topic for the curriculum and classes within all Solomon Islands schools. Each year, children could be taught what they should do in specific situations—e.g. how to walk to school, how to go to the market—and how to recognise potentially dangerous circumstances. Regular school visits by RSIPF personnel could use gender violence examples as teaching tools. The same would apply to in-school sessions with magistrates and PSO and DPP officials, if they were to visit schools. These suggestions are broached with awareness of the difficulty of their implementation, given that that school system is struggling with a scarcity of qualified teachers and materials, comparable to that of the judiciary and justice agencies.

Furthermore, if, as anticipated, the RSIPF strategic review were to recommend that the RSIPF deploys differing policing styles in different geographic parts of the country—Honiara, provincial capitals, economic enclaves and rural regions—it may be appropriate to develop specific gender inequality and domestic violence initiatives within, for example, the economic enclaves. It may be the case, for instance, that the security services of mining, timber and/or palm oil companies, along with the local communities, may be the primary providers of law and justice in the enclaves.<sup>198</sup> If so, Australia and/or RAMSI may decide that it is important to support narrowly defined initiatives improving the services delivered by these local providers *and* emphasising linkages between these security services and the Honiara-centric institutions, with a particular concentration on gender and domestic violence.<sup>199</sup> As part of their contracts to operate in these enclaves, companies may be compelled to institute and/or support projects on gender and domestic violence for their employees and in the communities in which their employees live.

Expanding this initiative one step further, it may be useful to examine how to strengthen the linkages between local law and justice actors—such as chiefs and village elders—and the Honiara-centric state system more generally. Once again, the role of COs may be a crucial linchpin in future programming, initiatives that Australia and RAMSI could support. Local

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<sup>198</sup> It seems also to be the case that resource extraction firms facilitate the perpetuation of gender-based crimes, such as prostitution.

<sup>199</sup> Working with private security companies lies wholly within RAMSI's law and justice mandate, particularly when support activities involve regulating those private corporations and improving the linkages between those companies and the SIG's law and justice institutions and agencies.

systems are “embedded in larger systems of district or local administration” and “coordinate a range of agency and service delivery functions”.<sup>200</sup> For promoting gender equality, this implies a need to look at how “more general socio-economic and service-related rights, such as access to education, health services [and] empowerment in local decision-making processes are closely related to gender justice and can aid women’s empowerment. Only the interplay of all sectors can lead to a changed society, and can mobilise women’s forces for increased social development.”<sup>201</sup> Once again, the COs can play a vital role in enlivening those networks. This is not just an issue for the RSIPF, but for the entire SIG, its law and justice agencies included. There is a need to tie together national, provincial and local systems into broader systems of justice and governance. These systems will inevitably vary from region to region and island to island, sometimes focusing on a policing model for the COs, sometimes on a justice alternative and sometimes on a community-governance approach.<sup>202</sup>

This may entail selecting a greater number of women to be COs than has been the case, or simply ensuring that women and women’s groups are actively involved in the selection and oversight of local service providers, despite the cultural sensitivities and hurdles that may need to be overcome. Without women’s participation in local law and justice delivery, Australia’s and RAMSI’s overarching gender policies will be virtually impossible to achieve. To accomplish their gender objectives therefore, RAMSI and AusAID may need to make a renewed effort to invigorate women’s groups, such as the Mothers’ Union on Isabel.

Admittedly this would be a long, slow and difficult process. The cultural barriers are onerous, as evidenced by the high percentage of women who believe that it is justified for husbands to physically punish their wives for alleged transgressions of their marital ‘obligations’.<sup>203</sup> But this phenomenon makes it all the more important for Solomon Islands women’s groups to take a leading role in the development of local service providers, for outsiders may be unable to penetrate and support a progressive transformation of cultural systems. A first step, therefore, may be to undertake a careful cultural analysis of gender issues and inequalities in Solomon Islands in order to develop a better and more systematic understanding of the challenge.

A second step may be to explore the reputed success of the neighbourhood groups in Honiara, in which women play a prominent if not predominant role, to determine if there are any lessons that could be taken from their experiences. Similarly, it is reported that RAMSI support for women in government has demonstrated success and there may be lessons learned in that experience as well. On the other side of the equation, an examination of the alleged difficulties encountered by the Solomon Islands NGO Partnership Agreement program may suggest that alternative approaches may prove to be more effective.

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<sup>200</sup> Dinnen, Sinclair and Nicole Haley, *Evaluation of the Community Officer project in Solomon Islands*, draft report, World Bank, 2011, pp. 11–12.

<sup>201</sup> Chopra, Tanja, *Improving women’s access to justice and security in Somaliland: operational paper*, UNDP Somalia / Rule of Law and Security Programme, 2011, p. 12.

<sup>202</sup> Dinnen, Sinclair and Nicole Haley, *Evaluation of the Community Officer project in Solomon Islands*, draft report, World Bank, 2011, pp. 40–41.

<sup>203</sup> Ministry of Women, Youth and Children’s Affairs, *Solomon Islands family health and safety study: a study on violence against women and children*, 2009.

For example, it has been noted that civil society organisations in general and women's groups in particular have, in the past, proven to be fractious and attempts to build coalitions among women's groups have failed. Donor support to address gender inequality and gender-based violence, however, need not necessarily depend upon coalition building between and among women's groups. Building and supporting a champion NGO who performs a concrete service in the area in which it works—geographically and substantively—is a viable and effective donor strategy. Again, the challenge is to choose other approaches to support women's groups, rather than defaulting to an organisational capacity-building model such as establishing coordinating committees and grand coalitions, particularly if one of the overall objectives is to localise the delivery of law and justice services, as the RAMSI law and justice program design document advocates.

One way to invigorate women's groups, for instance, might be to launch a type of women's venture capital fund, which, under the right circumstances, could be managed by an international NGO with offices in Solomon Islands.<sup>204</sup> Numerous small grants could be awarded to groups so long as their activities were directly tied to the work of local law and justice providers.<sup>205</sup> A women's fund, for example, could disperse small grants to groups that provide a specific service, such as support to victims of domestic violence, and/or seek to resolve a narrowly defined problem, such as the lack of social cohesion, by developing village by-laws and procedures so that the community can, in time, establish a neighbourhood watch group. Once again, the emphasis must be on the delivery of a service rather than awareness raising if a group is to be successful in its application for support. Additionally, for these women's groups to achieve the possibility of sustainability, they could be directly associated with community-driven development projects, where a percentage of the proceeds earned by the sponsored local business were to be diverted for the support of the local women's group and/or the local law and justice provider in which a representative number of women participate.<sup>206</sup>

There is no doubt that these activities fall outside the contours of a criminal justice program, as well as more traditionally understood law and justice programs. Nevertheless, they do sit within the law and justice arena as conceived within the parameters of this review. It is also beyond question that a law and justice project centred upon a women's fund constitutes a significant move away from the predominant capacity-building model of development that RAMSI has so far employed in Solomon Islands. Expanding the borders of law and justice programming and adopting varied development approaches may also be the most effective and efficient way for Australian support to achieve its gender objectives, while simultaneously

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<sup>204</sup> See RAMSI concept note, *Engagement with civil society and NGOs in Solomon Islands*, February 2010.

<sup>205</sup> This suggestion coincides with the recommendations of the *2011 World Development Report, Conflict, security, and development*, World Bank, Washington, DC, which argues it is effective and produces value for money when donors "pilot many different types of approaches to see which work best; accept a higher failure rate; evaluate rigorously and adapt quickly; and scale up approaches that are working" (p. 32).

<sup>206</sup> Tying community-driven development directly to women's groups who are involved in law and justice development may also be one way to begin to implement programs that treat law and justice systems as a lagging rather than leading indicator of development.

assisting local law and justice providers to have the possibility of producing value for money.

## 6. Conclusions and recommendations

This review has examined Australia's contribution to RAMSI's law and justice programming, as well as Australia's law and justice assistance in Solomon Islands more broadly, and observed how Australia's experience in Solomon Islands reflects Australia's overall law and justice strategies and approaches.

The review finds that while stabilisation efforts in Solomon Islands were highly successful, Australia's contribution to RAMSI and its other law and justice support initiatives have not maintained high levels of effectiveness and value for money as the context evolved. While Australia's contribution has enhanced the capacities of the SIG's law and justice ministries and agencies in a myriad of ways, those augmented capacities have not spilled over and/or been translated into an overall improvement in the delivery of the public good and services of justice and safety to the citizens of Solomon Islands. Part of the issue is that RAMSI primarily adopted an organisational capacity-building approach to its law and justice programming, which focuses on institutions and organisations as the beneficiaries. While strengthened institutional and organisational capacities may be essential precursors to improved delivery of law and justice, there is no necessary causal link between these stronger capacities and better service delivery. Consequently, the challenge facing Australia in the coming years is how it can appropriately configure its law and justice assistance to Solomon Islands, including its contribution to RAMSI, to provide better real-time law and justice service delivery, particularly outside Honiara. How can Australia, while it continues to support necessary organisational capacity building for the SIG's law and justice ministries and agencies, re-orient an adequate percentage of its law and justice programming to adopt other approaches in order to provide better law and justice to current and future generations?

Above and beyond the question of organisational capacity building as an appropriate model of how to conduct law and justice development in a postconflict stabilisation context, a second challenge is the current dependence of the SIG on Australian funding for its law and justice operations. Australia is presently funding approximately 60–62 per cent of all law and justice expenditures in Solomon Islands. As accounts concur that the current structure of SIG's law and justice ministries and agencies is unsustainable, this challenge is essentially a political one for Australia—namely, to what extent, in support of which law and justice services, for how much money and for how long is Australia willing to underwrite the delivery of justice and safety in Solomon Islands? This challenge delves into the difficult issue of what is the appropriate nature and structure of the Solomon Islands 'state', a question that has not yet been adequately considered by the SIG. Also, Australia and RAMSI have not sufficiently or forcefully enough advocated for and supported initiatives that would have encouraged and stimulated the SIG and civil society actors to tackle this difficult subject.

To address these challenges, this review offers six recommendations. The number of recommendations is kept purposefully small so they can be easily prioritised and



implemented. The recommendations are in priority order, except for the last suggestion, which is purely political.

Please note that the suggestions raised in the report and the following recommendations are offered cautiously and judiciously. They are based upon the team's overall law and justice experience and knowledge. However, they are not meant to substitute for the reasoned judgments of Australian, AusAID, and/or RAMSI officials. The team was on the ground in Solomon Islands for only two weeks. Therefore, the suggestions and recommendations should not be read as definitive, but rather as avenues that Australia might wish to explore in its future support for law and justice development in Solomon Islands and its contribution to RAMSI.

### **Recommendation 1**

That Australia engages strongly at the political level with the SIG on questions regarding what the nature and structure of the Solomon Islands 'state' will be as it evolves over the coming two generations. This implies that through its contribution to law and justice in Solomon Islands, including its contribution to RAMSI, Australia actively advocates and provides assistance for establishing law and justice institutions and agencies with appropriate structures and systems for that evolving state. Some initiatives may need to change the current political incentives that support the SIG's existing law and justice ministries and agencies, while continuing to adhere to and be aligned with existing SIG strategies and policies. As part of this shift, working with and strengthening *what exists* and *what is performing relatively well* may be the most relevant objectives for RAMSI law and justice programming.

### **Recommendation 2**

That Australia's support to law and justice in Solomon Islands and its contribution to RAMSI increasingly concentrate on local law and justice service delivery in order to meet the needs of citizens. This would require reappportioning a percentage of the resources (e.g. technical assistance, goods and services) currently directed to the SIG's institutions and agencies within Honiara, to service delivery in the provinces and at the local level. This is important given that among the catalysts of conflict and the Tensions were issues related to uneven development, land disputes and the centralisation of political power in Honiara.

### **Recommendation 3**

That a significantly increased percentage of Australia's support to law and justice in Solomon Islands and its contribution to RAMSI be used towards models of development other than the organisational capacity-building approach—namely service delivery, problem-solving and thematic alternatives. In addition, a thematic approach should be taken that gives priority to addressing gender inequality and gender-based violence.

### **Recommendation 4**

That Australia explores ways to engage more actively at the provincial and local levels, based on existing Solomon Islands cultural norms and traditions. In particular, Australia should conduct an in-depth exploration of how to enliven the role that Community Officers (COs) can play in providing law and justice services, in ways consistent with how local communities may

wish to use their COs. This is not just a policing issue, but one for the entire spectrum of SIG law and justice agencies, as well as other SIG ministries and agencies, as there is a need to tie together national, provincial and local systems into broader systems of justice and governance. These systems will inevitably vary from region to region and island to island, sometimes focusing on a policing model for the COs, sometimes on a justice alternative and sometimes on a community-governance approach.

#### **Recommendation 5**

That the monitoring and evaluation systems currently designed to evaluate RAMSI's performance, as well as Australia's other contributions to law and justice development, be strengthened to focus more on outcomes/results than outputs. This is essential to support the aforementioned recommendations.

#### **Recommendation 6**

That Australia, not RAMSI, takes the lead negotiating position on transitional challenges to law and justice development in Solomon Islands. This seems appropriate, given the Australian Government's fiduciary responsibility to its taxpayers and the dependence of RAMSI's law and justice programming on Australian funding, and in turn SIG's law and justice dependence upon RAMSI funding.

## ANNEX A: Program design and implementation types

There are four basic approaches with which to design and implement a law and justice development program. Each of these strategies encapsulates a theory of change and an understanding of how development occurs. Each strategy postulates a different beneficiary and therefore implicitly assumes a different method of measuring whether its programming is effective. The approaches are not mutually exclusive and effective programming requires a blending between and among them. There is no single correct amalgamation of approaches, but rather varying approximations of what works—when, where, for whom and regarding what objective. Amalgamating these approaches may also prove to be an effective risk management strategy.

To achieve an effective combination is a complex calculation, weighing the political dynamics and balances of the country (e.g. socio-economic structures, party politics, systemic issues, gender); the self-interests of the various actors (e.g. ministers, elites, political parties, transnational stakeholders); organisational behaviours; the potential utility of various entry points; and the political decisions of the donor involved (e.g. national interests, development principles, resources available and required).

The four ideal types of development, in order of increasing complexity and whole-of-government programming, are:

- organisational capacity building
- service delivery
- problem-solving
- thematic.

### Organisational capacity building

The organisational capacity-building development model is the pre-eminent approach of most development agencies, such as the European Commission.<sup>207</sup> AusAID defines the approach as a “process of developing competencies and capabilities in individuals, groups, organisations, sectors or countries which will lead to sustained and self-generating performance

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<sup>207</sup> See *Thematic evaluation of European Commission support to justice and security system reform*, desk report, vol. 1, main report, February 2011, ADE, Brussels. The preliminary evaluation findings of 20 projects concluded that there is “limited evidence of cases where the Commission has contributed to the strengthening of legal institutions in the delivery of criminal justice services or improved service delivery ... [in part because] Commission contributions appear generally to have adopted an institutional capacity approach” (p. 46). Similarly, with regard to safety and security, the preliminary evaluation found that over 80 per cent of the programs exclusively utilised an institutional capacity-building model (p. 56). For an extended discussion of the conceptual difficulties of the institutional capacity-building approach, see Pritchett, Lant and Frauke de Weijer, *Fragile states: stuck in a capability trap?*, World Development Report 2011 background paper, 2010. See also Chapter 5 of the *World Development Report 2011, Conflict, security, and development*, World Bank, Washington, DC, which argues that institutional capacity building has been ineffective, as it often overloads domestic capacity; imports generic ‘best practice’, which is usually anything but ‘best’; adopts an ‘output’ model of development rather than an output/results approach; and tends to cocoon development projects.

improvement”.<sup>208</sup> As suggested by the definition, the approach operates at differing levels and is “as much about developing management styles, work cultures, confidence, policies, systems, tools, processes and authority patterns as it is about enhancing knowledge and skills in individuals”.<sup>209</sup> Consequently, the principal beneficiary of this approach is an institution and/or organisation.

When done well, an organisational capacity-building approach conducts a ‘needs assessment’ at the beginning of the initiative, from which a baseline can be constructed. The needs assessment is, most frequently, limited to the ministries and agencies of the centralised state and invariably highlights the deficits and weaknesses of the institutions under examination, even though it is frequently stated that the approach must ‘build upon what already exists’.<sup>210</sup> Donor support packages seek to fill, compensate for and ‘rectify’ the scarcities and institutional flaws by providing a range of ‘inputs’.<sup>211</sup> With varying types of training and mentoring programs to strengthen skill sets, these inputs concentrate on improving the financial, human resource, operational and logistical management of the institution, as well as building its capital infrastructure (facilities and equipment) and drafting new legislation, rules and regulations.

The supposition is that with better training and training academies, rules, regulations, processes, procedures, managerial systems, infrastructure, budgets and so on, the organisation will be better capable of delivering the public service it is meant to provide. In this sense, the beneficiary of the approach is the organisation itself. There is, however, no logical and/or necessary causal association between the capacity of an organisation and the service that organisation actually provides.<sup>212</sup> Also, because this approach focuses on building organisational capacity, most of its measurement indicators tend to be outputs rather than outcomes/results.

### **Service delivery**

A service-delivery approach focuses development support at the point at which a service provider delivers its public good (the end) and not on the institutions and systems themselves (the means to the end). Instead of a ‘needs assessment’, therefore, the service-delivery model begins with an analysis of ‘what happens and what exists’, in addition to ‘who’ is delivering the service to ‘whom’. This approach can also be characterised as paying attention to the

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<sup>208</sup> AusAID, *Capacity development overview*, Capacity development operational policy note 1, October 2009, p. 1.

<sup>209</sup> Ibid., p. 2.

<sup>210</sup> Ibid., p. 6.

<sup>211</sup> The “literature is thin on empirically grounded evidence on the effectiveness of capacity development, much less capacity development support. There are few measurements of outputs, performance, or capacity gains linked to specific capacity development support”: Boesen, Nils and Ole Therkildsen, *Between naivety and cynicism: A pragmatic approach to donor support for public-sector capacity development*, 2004, p. 18. At best, capacity development is a long-term endeavour that “produces relatively intangible, often uncertain results” (ibid.); see also Lavergne, R  al and John Saxby, *Capacity Development: vision and implications*, Capacity development occasional series, no. 3, CIDA, Ottawa 2001.

<sup>212</sup> “Capacity enhancement of the public sector ... has become both increasingly needed and desired as a key strategy to achieve sustained poverty reduction. Unfortunately, it has often not been possible to achieve what is so needed and desired”: Boesen, Nils and Ole Therkildsen, *A results-oriented approach to capacity change*, Danish Ministry of Foreign Affairs, 2005, p. 1.

‘experience of the recipients of law and justice’ delivery. Consequently, the analysis is not limited to the ministries and agencies of the centralised state, but encompasses the range of service providers, including local providers who are authorised in the constitution and by law to deliver a public good, as well as those non-state actors who have no legal standing to provide service but do so nevertheless.

Programmatically, the model seeks first to strengthen the ways in which services are actually being delivered, and second to support the delivery of services to neighbourhoods and communities where insufficient levels of service are provided. If, for example, neighbourhood watch groups were currently providing safety to selected communities, the service approach would attempt to improve the day-to-day delivery of security by those groups. Such an initiative may include equipment and training to the neighbourhood group, but just as importantly it would look to strengthen the linkages between the community and its neighbourhood watch group *and* between the watch group and the ministries and agencies of the centralised state. Additionally, trainings projects would relate directly to the challenges and issues that arise from their delivery of service. A lack of justice service to rural populations, for example, may be ameliorated by the establishment of mobile courts and all the ancillary development activities to ensure that the mobile courts function effectively. Some of these ancillary activities may require an organisational capacity-building development component (court administration, archives court clerks) and some may pertain to local providers or non-state actors (customary police serving as bailiffs, delegation of authorities to local courts).

As is evident, the recipients of the service that is being delivered are the primary beneficiaries of this development model. Programmatic effectiveness is measured, first and foremost, by outcomes/results—the levels of service that identifiable recipients receive. The capacity of the provider can also be measured, but it is seen to be only an intermediation output—the means to the delivery of a measurable improvement of service.

### **Problem-solving**

The problem-solving model has many similarities to the service-delivery approach, as it also adopts the ‘experience of law and justice’ as its starting point; however, the two approaches differ. The problem-solving model identifies a concrete law and justice problem that needs to and can be addressed.<sup>213</sup> This tangible ‘problem’ may not necessarily be a service-delivery issue, but could instead be a managerial issue within a law and justice institution, such as a high rejection rate by prosecutors of police case files, as discussed in the report. The problem to be addressed typically involves a number of actors, some of whom may be beyond the usual confines of law and justice programming. Consequently, this development approach is more complex. Two classic law and justice problems are access to law and justice services, and length of time on remand/in pre-trial detention.

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<sup>213</sup> The service-delivery and problem-solving models may both seek to address cross-cutting law and justice challenges, such as access to justice and safety, gender violence and excessive remand times. The two approaches, however, tackle similar challenges in different ways.

The classic problem-solving approach—problem identification, formulation of options, evaluation of alternatives, implementation of the chosen solution, measurement of results—adopts a much wider perspective and often offers a more whole-of-government solution than either of the preceding two development models. The issue is not ‘who’ participates in the resolution, which is the starting point for the institutional capacity and service-delivery approaches, but ‘how’ the problem is resolved. For example, in postconflict and fragile environments an endemic problem is a severe dearth of financial and human resources within ministries of justice and judiciaries. Rather than immediately opting to increase the numbers of personnel and their salaries, which is likely to be financially unsustainable, the problem-solving approach might explore the utility of support to paralegal organisations as an intermediate solution, while at the same time explore ways in which community-driven development could support the sustenance of paralegal organisations. Violence and sexual assault against children walking to/from school and during school hours could effectively be addressed through ministries of education, teachers’ unions and community groups rather than necessarily through the national police and state court system.

Because of the range of ‘problems’ that this approach may tackle, the beneficiaries of this strategy vary widely; nevertheless, the beneficiaries are identifiable individuals and groups whose problem is to be resolved. Programmatic effectiveness is an outcome/result to be measured with reference to the problem being resolved—less violence and sexual assault against children, fewer police case files rejected by prosecutors, increased access to justice by identifiable individuals and groups and so on. Once again, the capacity of one of the participating law and justice actors can also be measured, but it is seen to be only an intermediation.

### **Thematic**

Of the four approaches to law and justice development, the thematic model is by far the most encompassing, adopts the most whole-of-government approach, and may not necessarily originate with a discrete law and justice challenge. In the thematic strategy, law and justice actors may only be one set of participants in a larger program, albeit important and pivotal stakeholders. Typically, the thematic approach begins with a societal challenge, such as resource exploitation (forests and timber, minerals), urban development or gender violence. Given that single challenge, the thematic model explores how various actors, including law and justice providers, can contribute to addressing the chosen issue. All programmatic activities—whether in education, governance, or law and justice development—aim to tackle a particular element of the overall challenge. What does not directly or indirectly contribute to addressing the challenge would not be supported programmatically.

For example, in a forestry theme, police corruption may arise as an obstacle in establishing a sustainable forest growth initiative. A police-vetting project may be called for and new police legislation required, which are standard organisational capacity-building initiatives. Once the legislation is enacted, it would be necessary to institute the new procedures and train police in them. Instead of conducting police-wide training, however, only those officers in the

geographic areas where the forests are being cultivated would be trained and only in selected stations would the vetting be undertaken. If the vetting were to be successful, those geographic areas would have become centres of excellence in vetting and it would be from them that a more comprehensive police-vetting program could be propagated.



## ANNEX B: RAMSI spending

| Regional Assistance Mission to Solomon Islands (RAMSI)<br>Law and Justice Program |  |                    |
|---|--|--------------------|
| <b>Dates</b>  | Start date: 1 July 2005, End date: 30 June 2013<br>Current facility started June 2011 and runs until June 2013 |                    |
| <b>Funding</b>  | <b>Financial year:</b>   | <b>AUD million</b> |
|   | 2005-06  | \$37.3             |
|   | 2006-07  | \$33.4             |
|   | 2007-08  | \$30.6             |
|   | 2008-09  | \$19.5             |
|   | 2009-10  | \$22.3             |
|   | 2010-11  | \$26.6             |
|   | <b>Planned:</b>  |                    |
|   | 2011-12  | \$20               |
|   | 2012-13  | \$16.2             |
|   | 2013-14  | \$10               |