



Solomon Islands

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Introduction

1. Seven years after the arrival of the Regional Assistance Mission to Solomon Islands (RAMSI) put an end to a period of unrest known as “the Tensions”, the conditions for long-term peace have not been firmly established. Many of the root causes of the conflict, particularly economic disenfranchisement and land ownership, have yet to be adequately resolved, notwithstanding RAMSI and some recent Solomon Islands government programs targeted toward these concerns.
2. Solomon Islands is a party to the Geneva Conventions of 1949 and their Additional Protocols; the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination on All Forms of Discrimination Against Women (CEDAW) and the Optional Protocol; and the Convention on the Rights of the Child (CRC). Furthermore, the Solomon Islands Amnesty Act of 2001 states that amnesties do not apply to violations of international humanitarian law or human rights violations or abuses, indicating that Solomon Islands recognizes its obligations under these bodies of law.
3. The Truth and Reconciliation Commission (TRC) currently under way is a significant step forward in terms of transitional justice. If the TRC can overcome ongoing funding challenges, fulfill its mandate, and engage community groups, there is reason to expect that it will produce a credible final report to the government with key transitional justice recommendations, including with regard to reparations for victims.
4. Court prosecutions for Tension-related crimes (officially termed “Tension Trials”) have reached a hiatus, with 30 to 40 trials nearly completed. Despite some successful convictions, the trials to date have been plagued by delays, criticisms over handling of evidence, a high rate of acquittals, and failure to prosecute some of the perceived “big fish.” Notably absent has been prosecution of gender-based crimes.

5. The Solomon Islands Government/RAMSI partnership in three key areas (law and justice, machinery of government, and economic governance) is gradually yielding results in terms of enhanced capacity. Population-based surveys indicate slow gains in the level of trust in some aspects of government, such as the police force. Some efforts are being made to address these issues. Corruption, particularly amongst parliamentarians, however, remains pervasive and urgently needs to be addressed.

Concerns

Law and Order

6. Although there have been significant achievements since RAMSI—in particular the ending of the Tensions and the restoration of general law and order—Solomon Islanders are concerned that violence will break out in certain areas of the country if RAMSI leaves.
7. This persistent underlying potential for instability can be largely attributed to the fact that many of the underlying causes of the Tensions remain unresolved. One of the biggest issues surrounding the Tensions has been land ownership. Uncertainty over this remains an ongoing issue notwithstanding the government's efforts to address it through a commission of inquiry into land use. This commission, however, has been the subject of strong allegations of corruption.

Corruption and Impunity

8. Despite recent reform initiatives, corruption and impunity continue to undermine public confidence in most government institutions. Individuals alleged to have played a significant role in the Tensions have retained public offices or senior positions in the government.
9. It is widely accepted that the 2001 government-led monetary compensation scheme for Tension victims was abused by some government officials.¹ These officials obtained unjust payments for themselves and their families. This has led to cynicism about the utility of any future government-led monetary reparations program for Tension victims. While reparations are a key part of addressing the effects of violence and resulting disadvantages that Tension victims experience, non pecuniary reparation schemes such as social programs should be considered. Further, in contrast to previous victim compensation programs that have distorted custom and resulted in corruption, a reparations program must be carefully designed to draw from custom in an appropriate, nuanced way consistent with human rights principles, including gender equity.

¹ See the report of the Commission of Inquiry into the April 2006 Honiara Civil Unrest.

Gender Justice

10. Gender-based violence was a significant, yet underreported occurrence during the Tensions. To date, none of the Tension Trials have encompassed prosecution for gender-based violence. Lack of accountability has had a continuing legacy; gender-based violence is a significant problem in Solomon Islands and has consistently been identified as a major barrier to development, given its debilitating effects on the health and welfare of women, their families, and communities.² Further, the relatively low levels of post-Tension domestic violence prosecutions suggest the conditions are lacking for women to engage with the formal criminal justice system in relation to sexual violence. Until adequately addressed, lack of redress for gender-based violence reinforces discriminatory public attitudes and perpetuates gender inequality. This is particularly concerning in light of Solomon Islands' obligations under ICERD (article 5(b)) and CEDAW (articles 5 and 15(1)).
11. The Tensions represented a major setback for women's empowerment initiatives in the country,³ and Solomon Islands remains one of the few countries in the world without any female parliamentarians. A number of initiatives addressing gender disparities in government are welcomed, such as the amendments to the Correctional Services Act of 2007 that have enhanced work opportunities for women.⁴ However addressing gender inequality demands continuing urgent attention.

Law and Justice

12. Allegations contend that many violations of customary international human rights and humanitarian law occurred during the Tensions, including the killing of people not engaged in hostilities, torture, internal displacement, and the destruction of property. Solomon Islands has a dualist legal system, requiring that Parliament enact domestic legislation in order to make obligations under international law binding domestically.⁵ The Solomon Islands Penal Code does not criminalize a number of key international offenses under customary international law such as torture and cruel, inhuman, or degrading treatment and forced disappearances. Nor does it criminalize basic civilian protections under Common Article 3 of the Geneva Conventions applicable in non international armed conflict. The prosecutors for the Tension Trials therefore relied on existing domestic criminal offenses, such as murder and assault, rather than important key crimes under international human rights and humanitarian law. Nonetheless, the alleged perpetrators could in theory be held responsible in foreign or international courts through various legal means. So under international law, violation of these key international offenses is significant. In light of Solomon Islands' international legal obligations, it would be fitting for the government to comply with

² *Violence Against Women in Melanesia and East Timor, Solomon Islands Country Supplement*, AusAID, 2007, 130.

³ *Ibid.*, 133.

⁴ See *Annual Performance Report 2007/8*, Performance Assessment Advisory Team to the Regional Assistance Mission for Solomon Islands, 2008.

⁵ See *No Safe Haven Series: Solomon Islands*, Amnesty International, 2009, 12.

customary international legal obligations by making these key international crimes part of the domestic legal framework.

13. Further, and as noted above, there were no prosecutions for sexual offenses, which has resulted in a failure to recognize the important impact conflict has on women and communities that is now widely accepted in international law.
14. The prosecutions designated to date as Tension Trials that have been completed are welcome progress given the significant delays that plagued this series of prosecutions.⁶ Yet the outstanding issues relating to accountability of key leaders and culpability for acts of gender-based violence remain unaddressed. The Solomon Islands government should urgently prioritize consideration of further prosecution given that more than a decade has elapsed since many of these violations were committed.
15. In a transitional justice context, it is important to recognize the limited reach of formal justice systems in Solomon Islands. Outside a few urban areas, localized customary systems of justice and conflict resolution (many of which integrate the Church) carry far greater weight than court-centered processes. To date, RAMSI and other donor interventions have focused largely on state institutions such as courts, prisons, and police. While formal court trials and institutional reforms are essential, so too is the recognition of legal pluralism in designing justice and accountability measures that will impact people's lives and be sustainable. To this end, the Solomon Islands government should insist that greater attention is paid to the informal sector when developing law and justice programs.⁷

Achievements

Truth and Reconciliation Commission

16. The Solomon Islands government should be congratulated for establishing the TRC, a concept put forward by the Solomon Islands Christian Association (SICA), and also for establishing a Ministry of National Unity, Peace and Reconciliation. Setting up a TRC is a tangible demonstration of commitment to establishing a record of the Tensions that incorporates victims' perspectives and contributes to peacebuilding and reconciliation.
17. The wide mandate of the TRC to consider the impact of the causes and events of the Tensions on victims is welcomed, including requiring the commission to consider impacts on the health, education, legal, and other sectors. The extensive research, investigation and hearing powers give the commission the tools needed to provide victims of the Tensions with a meaningful voice, and to conduct comprehensive

⁶*Annual Program Performance Report for Solomon Islands 2008*, AusAID, 2009, 23.

⁷ AusAID identified this in a 2008 midterm review of the RAMSI Law and Justice Program, and will inform future AusAID programs. See *Annual Program Performance Report for Solomon Islands 2008*, AusAID, 2009, 24.

research and investigation. The Solomon Islands government and international donors fund the TRC; however, this funding has been administered at a slow pace, and that often impacts the commission's activities. Adequate and timely resourcing is essential to enable functions to be carried out fully. An appropriate time frame in which to complete the mandate is also necessary.

Return to Law and Order

18. The rapid return to law and order after RAMSI arrived in 2003 was a significant achievement and widely welcomed by Solomon Islanders. The regional collaborative nature of RAMSI and its focus on building the capacity of government institutions has been a welcome development from a transitional justice perspective, and RAMSI still enjoys significant support within the country. As noted above, in addition to formal institution building, greater attention must be paid to informal institutions and customary transitional justice methods as well as to the economic causes of conflict, in order to establish peace.

Recommendations

19. Prioritize the prosecution and completion of any outstanding criminal matters relating to the Tensions, particularly addressing the issue of the leaders and those responsible for gender-based offenses.
20. Provide the TRC with the necessary financial and political support to enable it to be fully effective. The commission's ability to reach as many victims as possible and to conduct in-depth research and investigations, are key components in producing a comprehensive, credible final report with well-supported recommendations. Recommendations from the final TRC report have the potential to be catalysts for holistic transitional justice reform that complement existing RAMSI-led institutionally focused law and justice work. There should be a plan for devoting resources to facilitate action upon the TRC's recommendations, particularly in relation to victim reparations programs.
21. Build the framework for domestic protection of human rights in times of peace as well as conflict by ratifying the Rome Statute and becoming party to key human rights treaties, notably the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Incorporate these obligations into domestic laws, and introduce a national human rights commission to assist with and monitor compliance.