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THE CONSTITUTIONAL REFORM PROCESS IN SOLOMON ISLANDS: AN ANALYSIS OF THE PEOPLE’S INVOLVEMENT IN THE MAKING OF THE DRAFT FEDERAL CONSTITUTION

A SUPERVISED RESEARCH PAPER PRESENTED IN FULFILMENT FOR THE REQUIREMENTS FOR THE DEGREE OF MASTERS IN GOVERNANCE AT THE UNIVERSITY OF THE SOUTH PACIFIC

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November 2009
DECLARATION OF ORIGINALITY

I Paul Malaii Mae declare that this Supervised Research Project is my own work and that, to the best of my knowledge, it contains no materials previously published, or substantially overlapping with material submitted for the award of any other degree at any institution, except where due acknowledgment is made in the text.

Signed: PAUL MALAII MAE

Dated: 29 January 2010
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SYNOPSIS

This study on Constitutional Reform in Solomon Islands focuses on the participation of Solomon Islanders in the process. Solomon Islanders had been in the past regarded as bystanders in the constitutional building process. This came back to haunt them today when Solomon Islanders realized that the Constitution created during independence did not meet their desire and need for decentralization and direct participation in decision making in the country. A new system of government is needed to rectify this, and the constitutional reform proposed the answer with the introduction of the federal system of government.

Important components of this research include a theoretical discussion on key concepts like decentralization, democracy, participation and constitutionalism. These concepts are fundamental to the discussion and analysis of the participation of Solomon Islanders in the constitutional reform process.

The research identifies a variety of constitutional reform issues facing Solomon Islands. The call for constitutional reform in Solomon Islands is as old as the country itself. Numerous attempts at reform were made in the past with no real intention to go beyond the usual surveys and findings.

This research identifies the Townsville Peace Agreement as the catalyst for renewed calls for constitutional reforms. Since then, successive governments have made it a priority to see the constitutional reform process achieve its objectives. Consultations and surveys have been carried out, and as a result a draft federal constitution has been drafted. Since 2004 the draft has been used as the basis for more consultations. After 4 years of deliberations, another draft was published; the 2009 first draft of the federal constitution is now out for further deliberations.
This research analyses the participation of Solomon Islanders in the constitutional reform process and the key question is whether the draft federal constitution represents the wishes of the majority of Solomon Islanders. The research analyses the participation of Solomon Islanders in all the reform consultations and surveys, and the representation in the constitutional congress.

The research highlights the need for Solomon Islanders to participate in the constitutional reform process. It is articulated that better services and development will reach the grassroot people if there is decentralization and de-concentration of government power. Through such popular participation Solomon Islanders can construct a system of government that will bring the government closer to the people. The research points out that the current system of government is not supportive of allowing Solomon Islands owners to develop their natural resources. The federal system of government would provide the best option by bringing the key decision making arms of the government closer to the people and can be easily utilized for development purposes.

An autochthonous constitution designed along the wishes and desires of Solomon Islanders and instituting their chosen government system would help the country explore new areas never explored before. A federal system of government would also create positive competitiveness and greater participation in development in the rural areas.
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CHAPTER 1: INTRODUCTION

1.1 Overview

There is call for constitutional reform throughout the region as countries re-assess the viability of the constitutions they adopted at independence. Countries such as Tuvalu, Kiribati and Fiji replaced their independence constitutions for modern constitutions that are compatible with their circumstances and situations. Reforms in Fiji led to the 1997 Constitution, which was hailed as one of the best in the world. The 1997 Constitution was abrogated by the Military regime in 2009 leaving the country with no constitution and more questions on what type of constitution would satisfy the cross-cultural differences in Fiji.

Other countries in the region are still pondering the idea of changing their constitutions to reflect their local circumstances. For instance, there were suggestions by individuals and political parties in Vanuatu that there needs to be constitutional reform to assess the current political structure. In one speech, an outgoing President of Vanuatu, Matas Kelekele, called for a constitutional reform, citing the inadequacy of the current system. He suggested that the more suitable system for Melanesian countries such as Vanuatu and Solomon Islands is a federal system of government.

Solomon Islands has finally taken serious steps to re-look at the independence constitution, a process that has been long overdue. Pre-independence leaders opted for the monarchical unitary system of government, with a largely centralised government. According to one of the leaders involved in this decision, Sir Peter

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1 Tuvalu replaced its 1978 Constitution in 1986. The current preamble recites its constitutional history with the words “...[1978] Constitution has served the people of Tuvalu well since Independence but now, more than seven years since its adoption, it is time that the people of Tuvalu reconsidered it in the light of their history and their present and future needs as they see them.”

Kenilorea, the monarchical unitary system was ideal for Solomon Islands as it provides a strong central government from which power will be exerted on all the different island groups. This option was opposed as early as the first celebration of independence, mainly by groups from the Western Province. The centralised nature of the government was criticised for the next thirty or so years as the central government struggled to cater for decentralisation of powers to the provinces.

This study of the constitutional reform process in Solomon Islands will focus on the path taken towards the adoption of the present draft federal constitution. Important components of this study include a theoretical discussion of the approaches taken in the process, especially in assessing the extent to which Solomon Islanders were involved in the make-up and discussion of the draft federal constitution. The study will also provide a historical and descriptive discussion of the events leading up to the various drafts of earlier draft federal constitutions. The focus of this research is the involvement of Solomon Islanders in the designing, planning and drawing up of the draft federal constitution.

The study critically analyses the participation of Solomon Islands citizens in the DFC. The reform processes and methods, and make up of the various committees are important areas this paper assessed to determine the fair representative participation of Solomon Islanders. For instance, this research will analyse the amount of consultations carried out in the communities and the impact the feedback from these meetings had on the formulation of the draft federal constitution. This research also scrutinizes the role of various bodies such as the Constitutional Reform

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3 Kenilorea, P., 2008, Tell it as it is: Autobiography of Rt. Hon. Sir Peter Kenilorea, KBE, PC, Solomon Islands’ First Prime Minister, Center for Asia-Pacific Area Studies, Taiwan.

Unit (CRU) in assessing and drafting a new federal constitution and to design a new constitutional path for the country that reflects the needs of the country.

1.2 Qualifications for the research study

This research aims to add to the existing information and findings on the constitutional reform process in Solomon Islands. Constitutional reform is a continuous process throughout the world as countries seek to rectify issues of governance, leadership, and delivery of services to their citizens. In Solomon Islands, the process of constitutional reform began as early as the day independence was declared from British control. There were various sections of the country that favoured a decentralised system of government rather than what is offered by the monarchical unitary system.

This paper attempts to contribute to our understanding of the continuous constitutional reform process. A literature search on constitutional reform in Solomon Islands will show numerous publications and theses on this issue in Solomon Islands including work by such academic researchers as Graham Hassall, Ian Scales, Jennifer Corrin, Jon Fraenkel, Sinclair Dinnen, Ralf Premdas, Yash He co-wrote the book *Asia-Pacific Constitutional Systems* with Cheryl Saunders of the University of Melbourne. His works include numerous publications and presentations on governance, constitution making and nation building in the Pacific region, including Solomon Islands. Ian Scales is a Doctoral Candidate in Anthropology at the Australian National University. His published work include *Regional Politics in Solomon Islands*, a paper presented at the Solomon Islands Workshop: *Building Peace and Stability*, organized by the State, Society and Governance Department of the Australian National University, 2001, and an article on the *Solomon Islands Western State Movement in 2000* (2007). Some of Jenniffer Corrin-Care’s most notable work on constitution making in Solomon Islands include the following: 1) *Breaking the Mould: Constitutional Review in Solomon Islands* (2007); 2) *Negotiating the Constitutional Conundrum: Balancing Cultural Identity with Principles of Gender Equality in Post Colonial South Pacific Societies* (2006); 3) *The search for a more appropriate form of government in the Solomon Islands* (2005); 4) *Off the peg or made to measure: Is the Westminster system of government appropriate in Solomon Islands?* (2002); 5) *More on democratic fundamentals in the Solomon Islands* (with Brown, 2001).
Ghai, and local Solomon Islands academics such as Gordon Nanau and Tarcisius K. Tara. Most of the literature is historical, descriptive and focused on various general aspects of the process. Most discussions are on decentralization and constitutional reform. Government officials involved in the process also contribute to the literature with public presentations and articles. This includes John Tuhai, Reginald Teutao, Schmidt Schindnowski and Tom Woods, who travelled extensively presenting papers on certain aspects of the constitutional reform process. Another researcher who is also looking at the participation of Solomon Islanders in the constitutional reform process is Katy Le Roy. However, most of her work is still in the preliminary stages and is not yet published.

9 His work includes a book co-edited with Stewart Firth called Politics and State-Building in Solomon Islands (2008), and the article 'State-Building in a Post-Colonial Society: The Case of Solomon Islands'. 2008.
10 Ralph Premdas’ work dated back to early 1980s, they include two books co-authored with Jeffery Steeves titled The Solomon Islands : An experiment in decentralization (1985), and Decentralisation and political change in Melanesia : Papua New Guinea, the Solomon Islands, and Vanuatu (1984). Part of the book The Solomon Islands: An experiment in decentralization was republished by Ralph as an article in the Public Administration and Development Journal (2006).
11 Yash Ghai played a huge role as advisor to the SI Government and Chief Negotiator in the negotiations and drafting of the independence Constitution of Solomon Islands in the period 1977–78. This role is documented in the chapter “The Making of the Independence Constitution” in Larmour, P and Taura, S. (eds.), Solomon Island Politics (Suva, 1984), pp 9–52. Another notable article from him on constitution making in Solomon Islands is the article Constitutional Reviews in PNG and Solomon Islands (1990).
13 Tarcisius Tara Kabutauluka is a political economist who wrote extensively on issues of governance and development in Solomon Islands. Some of his work related to this research include the articles: 1) A weak state and Solomon Islands Peace Process (2002), and 2) Beyond Ethnicity: The Political Economy of the Guadalcanal Crisis in Solomon Islands (2001).
14 For example, Gordon Nanau’s masters and PhD theses were on decentralization and development; Tarcisius Kabutauluka wrote on issues of governance, as do scholars such as Graham Hassall, Ian Scales, Jon Frankael and Sinclair Dinnen. Ralph Premdas studied the operation of the Provincial Government system, taking a comparative approach by looking at Solomon Islands and Papua New Guinea.
15 Katy Le Roy is also conducting a research on the participation of Solomon Islanders in the constitutional reform process in Solomon Island and Fiji. She is a PhD candidate at the University of Melbourne and at the same time a Parliamentary Counsel in the Republic of Nauru. Some of her draft papers were also relied on in this research paper.
Nevertheless, it is important to note that constitutional reform in Solomon Islands is unique. It is a continuous process. The writings of previous researchers should be viewed as significant records of part of the process, each providing descriptive and analytical views at different stages of this process. My research is conducted after Katy Le Roy’s research and some of the areas covered here may not feature in Le Roy’s work, such as the role of the Constitutional Congress, the plenary meetings and the first draft federal constitution for 2009.

With this research, I hope to analyse the participation of Solomon Islanders in the constitutional reform process. It is common knowledge in the Solomon Islands that often decisions of higher magnitude are made without proper consultation or awareness. On most occasions, they are made under the presumption that the final outcomes generally reflect the views and desires of all Solomon Islanders. They may not do so, though. The research focuses on the consultation process and methods, the participation of key individuals and stakeholders, parliamentarians and the involvement of the Constitutional Congress (CC) and the Eminent Persons Advisory Committee (EPAC) during the plenary meetings.

1.3 Research Question

The important questions this research paper sets out to analyse include:

a. To what extent do the consultations reflect the views and perspective of ordinary Solomon Islanders?

b. To what extent did Solomon Islanders contribute to the content of the draft federal constitutions?

c. Does the State Government Task Force reflect the views of Solomon Islanders?
d. Does the membership of the Constitutional Congress and the Eminent Persons Advisory Council reflect the approval or mandate of the majority of Solomon Islanders?

e. Does the participation of the national government affect the consultation process and the final outcome of the draft federal constitutions?

f. Did foreign stakeholders at any stage of the process tried to influence the outcome of the consultation process and the content of the draft federal constitutions?

g. Did Solomon Islanders freely and openly participate in the process of constitutional reform in the Solomon Islands? and

h. Is Solomon Islander participation effective in the drawing up of a home grown draft federal constitution?

1.4 Parameters of Research and the Research Methodology

a. Parameters of the Research

This research covers the constitutional reform process from 2000 to 2009. This period begins with the Townsville Peace Agreement (TPA) in Australia to the first DFC to the current constitutional congress set up to oversee the final Federal Constitution.

Constitutional reform in Solomon Islands has been a continuous process since independence. The Western Province of Solomon Islands strongly expressed their opposition to the Westminster system of government that was adopted upon Independence. Their wish for a federal system of government had been clear from those years, leading to various Commissions of Inquiry, consultations and surveys mandated by various governments in the past up to the events of 2000. The
Townsville Peace Agreement brought a new dimension to the problem, with a renewed commitment from the Government – a commitment that all governments after the 2000 events were obliged to honour.

b. Methodology

This supervised research paper is a product of a year-long research study I conducted through intensive library and internet research, discussion and interviews with stakeholders and people that were involved in the constitutional reform process in Solomon Islands. My interest in this topic got a new life when I enrolled for the supervised research paper in 2009. A major part of the research has been spent collecting, collating and analysing information. The remainder of my time is spent on the writing and refurbishing the paper based on the feedback and commentary received from friends and academics.

A number of research methods employed in this paper can best be divided into two parts. These are: (1) the collection process or the means of obtaining research materials; and (2) the analytical aspect of the information collected. The collection process comprised three stages. The initial stage involved conducting online research which assisted me to identify the available literature on the topic by other writers and academics. It was also important as it led me to discover different areas of constitutional reform that had been covered in these writings.

The second stage of the research was library based, where I researched documents and publications on constitutional reform in Solomon Islands that may not be found online. This stage of the research was also important as it provided insights that can be gleaned from a large number of published books, journals and unpublished materials like students’ theses. These theses also assisted me in providing guidance and additional literature.
The third stage of the *collection* part of the research involved field research. Numerous trips were taken to Solomon Islands to undertake field research. My first trip, in June 2009, though brief, helped me to forge a good research relationship with the Permanent Secretary of the Constitutional Reform Unit (CRU). This relationship formed a crucial part of my research as much of the necessary important information can only be obtained through this office with the approval of the Permanent Secretary and the cooperation of their media officer. Also it was during this trip that I was granted permission to attend the plenary session of the Constitutional Congress (CC) that was sitting at that time. It was indeed a privilege I got first hand experience and understanding of the plenary discussions. The outcome of this plenary session is the 2009 first draft of the Federal Constitution.

I made a second trip in late July 2009, spending most of time in the CRU library and conducting research in Honiara. These researches include discussions with the CC and EPAC members, provincial government members, prominent Solomon Islands leaders, public servants and general members of the public. This trip provided insight into the perceptions of the people involved in the later stages of the constitutional reform process.

I also engaged in discussions with members of the CC and EPAC and academics interested in the constitutional reform process through online (internet or email) discussions. A questionnaire was distributed to members of the CC and EPAC seeking their views on the constitutional reform process. The aim of the questionnaire was to collect information regarding the nominations and endorsement of the CC and EPAC members and their level of participation at the

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16 I met and interviewed a number of provincial government members from Malaita Province and Central Islands Province in Honiara during my field trip in July 2009.
17 See Appendix II for a sample of the questionnaire.
plenary meetings. Similar online discussions and sharing of information was done with other researchers working on the same field, such as Katy Le Roy. She provided copies of her unpublished presentations for my research.

I was also given invaluable unlimited access to all documents at the disposal of the CRU office. I spent a major part of the field research project at the Constitutional Review office identifying documents of importance to the research.

The second part of the research involves the analysing of the materials collected. This is the intriguing part of the research because it involved a lot of information which I had to prioritize or alternatively, discard reluctantly. In order to minimize this immense task, I looked at media publications and listed them chronologically and concentrated mostly on events that unfolded after the TPA that relate to the constitutional reform process. Secondly, I looked at the various consultations that were carried out as parts of the constitutional reform process were analysed; this involved the constitution reform committee consultation reports of 1987, the SGTF report, the UNDP consultations reports, the MPs’ reports and the CC consultations. Thirdly, the make-up of the CC and EPAC committees and their contribution towards the final draft of the federal constitution were analysed. In doing so, I looked at important aspects of these committees, such as their attendance and contribution to the final form of the draft federal constitution.

1.5 Challenges encountered

A number of difficulties were encountered during this research; however, none of these difficulties posed any major hindrance to the final write-up of this paper. The common difficulties encountered during the research stage are discussed briefly.
a. *Lack of cooperation by interviewees*

Occasionally intended interview visits were postponed with the common excuse that the interviewee is sick or is in a very important meeting. Attempts to reschedule these meetings yielded no better results – citing previous reasons for failure to attend these interviews. I am of the view that some of these intended interviewees did not want to be interviewed about the role they play in the constitutional reform process. Others probably view academics with a certain degree of suspicion, prompting a natural instinct not to engage with them at all.

Nevertheless, the important thing those involved in the constitutional process must appreciate is that the reform process is a significant national process. There is a duty to be accountable and transparent to the citizens of Solomon Islands. Also the leaders involved in the constitutional reform process are important leaders and people rely on them to make the right decisions; right decisions on issues such as accountability and transparency. It is expected of leaders to answer questions posed by the constituents or general members of the public on current issues before the parliament, which in itself is continuous consultation.

Therefore, the failure to attend and discuss issues relating to the constitutional reform process or reluctance to discuss issues relating to the reform process would be deemed as attempts to avoid discussing some aspects of the reform process issues. My experience was further compounded by the opinion of some members that bureaucracy information relating to the government or discussions made in the chambers should be protected. The standard for these is public interest, otherwise government information is public information to aid the public to accurately record issues or otherwise effectively engage with the government.
b. Meeting key players in the constitutional reform process

It was also discovered during the research that some of the key players in the reform process that I wanted to talk to or interview were not in Honiara. The absence of some of these key players made it difficult to obtain information as there were no alternate choices available. Similarly, other key members of the reform process resided in the provinces and only travel to Honiara when required for meetings. This created a problem for the research as the corroboration required to support some of the information gathered during the early stages of the research was not obtained.

Nevertheless, the materials uncovered from the Constitutional Reform Unit office were sufficient to outline the roles of such key players in the reform process. This was sufficient for the purposes of this paper. However, I will continue to pursue these key players for interviews for future publications or research.

c. Getting feedback from those issued with questionnaires

I had worked extensively to collate a list of email addresses of people who were involved in the reform process, including those involved in past reforms. The purpose was to distribute questionnaires to them and put together their responses. The questionnaire mainly targets the CC and EPAC membership. This is because at the current stage of the reform process they are the key players and their decisions will have the most impact on the draft federal constitution. Other key players such as those involved in the UNDP consultation or the MPs consultation were not involved in this questionnaire as their views were already documented in those respective reports.
The response to the questionnaires was not as positive as expected. Only about thirty percent of the thirty two members of the CC responded to the questionnaire. This meant that the findings associated with the questionnaire may not represent the overall perspective of those involved in the plenary sessions. Nevertheless, the questionnaire findings provided a clinical insight to the process as individuals involved in the process gave their opinion on the process using their experience as evidence. It is for this reason that I saw it fit to include the findings of the questionnaires in this paper.

1.6 Summary of Chapters

It is anticipated that this paper should add another dimension to the existing literature by providing discussion and analyses of the current stage of the constitutional reform process. This paper is divided into eight chapters. Chapter one of the research provides a summary of the overall content of the research paper. It (a) summarizes the purposes of the research, the methodology used to collect information and materials, (b) identifies available literature, and (c) identifies the difficulties encountered during the research and analyzing stages. Chapter 1 also provides a brief summary for each of the chapters that will be covered in the research.

Chapter two examines the different theoretical principles that are associated with the constitutional reform process in the country. It discusses the principles of decentralization, democracy, constitutionalism, and constitutional reform. This chapter will also explain the distinction between the current system of government adopted in Solomon Islands and the desired federal system of government.
Chapter three looks at constitutional reform in Solomon Islands. It starts with a general introduction to events that had occurred in Solomon Islands that nearly brought the country down. It was these events that provided the catalyst for a renewed move to bring about constitutional change. This chapter then moves on to provide general descriptive and informative knowledge of Solomon Islands. This part encompasses a discussion on constitution making and identifies the constitutional issues Solomon Islands faced immediately after independence up to today.

Chapter four looks at the Townsville Peace Agreement (TPA) of 2000. This chapter views the TPA as a very important component of the constitutional reform process because it triggered the chain of events that led to the presentation of the various drafts of the federal constitution. The TPA is an agreement made among two warring parties and the government to end fighting in Solomon Islands. And more importantly the government made a commitment to fulfill its promise to the parties in the agreement. One of these promises is to see the introduction of a state/federal system of government for Solomon Islands.

Chapter five looks at the draft federal constitution (DFC) drafted by the government as a working paper towards the compilation of the final federal constitution. This chapter provides a chronological description of events after the TPA, beginning with the Buala Premiers Meeting and the formation of the SGTF team to review the findings of the 1987 CRC findings with the aim of formulating an alternate system of government for the country. This chapter further looks at the parties involved in the drafting of the DFC, including key stake holders such as the government, UNDP and other aid donors. It also provides discussion on the possible implications of the DFC for Solomon Islands. Chapter five concludes with a comparison of the 2004 draft of the DFC and the first 2009 draft of the DFC.
Chapter Six looks at the consultation process involved in the constitutional reform process. In reviewing the consultation process, the chapter begins by looking at the consultation methodology used by stakeholders to conduct the consultation process. This involves the identification of methodology used in the 1987 CRC Report, the UNDP surveys, MPs surveys, and the CC consultations. Chapter five closes with discussions on the CRC and its operations and the latest plenary meetings.

Chapter Seven of the research paper looks at the constitutional reform process from an analytical perspective. Discussion in this chapter concentrates on the consultation processes used in the various consultations and surveys carried out in contemplation of finding a system of government that would match the desires and needs of Solomon Islanders. The purpose of this chapter is to determine the depth of participation by the majority of Solomon Islanders in the constitutional process.

Chapter eight looks at the future of the constitutional reform process. In doing so, the paper provides some recommendations that should be considered to ensure the process is representative of Solomon Islanders and their aspirations.

Finally Chapter Nine will revisit the questions this research set out to assess.

1.7 Conclusion

This chapter has shown the importance of this research to Solomon Islands. It adds another dimension to the growing literature on constitutional reform in the country. Furthermore, this chapter showed that though much analysis has been published, none specifically looked at the area of participation in constitutional reforms by Solomon Islanders, let alone any carried out by an indigenous Solomon Islands researcher.
The research parameter is clearly spelt out to the readers to ensure that readers appreciate the purpose of the research. It is important to note that the research was conducted by using the questions methodology outlined in this chapter. A strategic approach was used in the collection and compilation of information towards the final research. The chapter summaries should assist readers browse through the proposed chapters in a few sentences.

The next chapter will look at some key theoretical concepts and principles that are very important in the discussion on constitutional reforms. It will cover concepts such as decentralization, deliberative democracy, constitutionalism and constitutional making, and federal and unitary systems of governments.
CHAPTER 2: THEORETICAL DISCUSSION ON DECENTRALISATION, PARTICIPATION AND CONSTITUTION MAKING.

2.1 Introduction

This chapter examines the theoretical aspects of constitutional reform and the engagement of the general public in the process. The chapter defines the concept of decentralization. It will also outline some of the justifications given by advocates of the decentralisation concept as to why it is an important aspect of any political system. Secondly, this chapter will look at the issue of constitution making. In doing so, the paper will attempt to illustrate why democratic participation in constitution making is vital.

Thirdly, this chapter will look at the issue of deliberative democracy or constitutional models that outline the issue of legitimacy. Further deliberations will also be made on the theory of the Westminster system of governance and its operation in Solomon Islands. Finally, this paper will highlight the level of participation the Westminster system provides to Solomon Islands as compared to a wider level of participation Solomon Islanders had anticipated.

2.2 The Concept of Decentralisation

The concept of decentralisation cannot be fully understood on its own unless it is defined in association with other terms such as centralisation, de-concentration and devolution.\(^\text{18}\) De-concentration is the transfer of some administrative authority and responsibility to subordinate agencies or officers who normally act in the interest of

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the superior authority. \(^{19}\) This involves the transfer of responsibilities from the central authority to agents normally in the provinces to minimise the work load on the central authority and attempt to increase ownership and bind relationships between government and the provinces. Solomon Islands researcher Gordon Nanau observed that though the workload was shifted to field staff, the power to exercise discretion in decision making does not normally transfer to agents. \(^{20}\) It remained with the superior in the central headquarters. He argued that de-concentration is centred on administrative roles, which normally fall within the bureaucratic echelon of the country. In the case of Solomon Islands, Nanau described de-concentration as bureaucratic transfer of personnel and workloads from headquarters to the provincial authorities in the form of seconded staff officials. \(^{21}\) For example, the provincial Secretary to the provinces is appointed by the Public Service to work closely with the provincial governments to implement government policies. \(^{22}\) The provincial secretaries are not accountable to the provincial authorities but to the Public Service Commission. Therefore, there is already an element of central government control in this arrangement, which leaves provincial governments frustrated and insecure.

In devolution, as opposed to de-concentration, the recipient of authority is authorised to make decisions on matters stipulated in the decentralisation legislation. \(^{23}\) This means that legislation explicitly confers necessary power to make crucial decisions on to the lower level of government to carry out its roles and functions. Though the central government may have supervisory control over the lower levels of government, the lower levels of governments are legally distinct and


\(^{21}\) ibid, p.30.

\(^{22}\) See section 116 of the 1978 Constitution of Solomon Islands.

\(^{23}\) Nanau, G. 1997, Decentralisation, development and Popular Participation in Solomon Islands, p.31.
independent from the central government.\textsuperscript{24} A good example in Solomon Islands is the provincial governments, who are empowered by the Provincial Government Act to make ordinances regarding matters within their legislative competence.\textsuperscript{25} However, such ordinances are subject to national laws and the Constitution.

Another term associated with the concept of decentralisation is ‘centralisation’. Centralisation is distinct from decentralisation in its operation.\textsuperscript{26} By definition, centralisation refers to the form of governance where there is a concentration of decision making in one person or group of persons.\textsuperscript{27} Normally this person or group of persons is taken to refer to the national or central government. In a standard system, all the powers are vested in the government and it delegates to its agents their roles and functions. The current system of government in Solomon Islands is associated with this concept because the power is centred in Honiara, the Central Government’s administrative headquarters.

Having looked at some of these concepts and principles associated with decentralisation, one will now take a look at the concept of decentralisation. Theoretically, decentralisation can best be defined as the transfer of powers and or functions from the central government to provincial governments, or from central government to authorities more dispersed from the centre or towards the periphery.\textsuperscript{28} It includes the transfer of authority and responsibility within the

\textsuperscript{24} ibid.
\textsuperscript{26} In his master’s thesis, Gordon Nanau pointed out that despite the general perspective that centralization and de-centralisation appear at the opposite ends of a scale, a new perspective has been advanced by scholars (Hart, 1972 and Seshadri, 1978) that showed that these two concepts should be viewed as complementary to each other. It was pointed out that without centralisation, decentralisation is impossible as well because decentralisation can only occur in a system where there is a previous history of centralisation. See Nanau, G. 1997, “Decentralisation, development and Popular Participation in Solomon Islands,” p.33.
\textsuperscript{27} ibid, p.32.
bureaucracy to officials stationed outside the headquarters and at the same time, legally confers power to these lower levels of government to make policy decisions on specified matters.

The two basic aspects of decentralisation are political decentralisation and administrative decentralisation.29 Political decentralisation provides for the devolution of power and authority from the central government to the lower level of government. On the other hand, administrative decentralisation ensures that power and its delegation is equally distributed or delegated to the lower levels of government. At the moment in Solomon Islands, both features of decentralisation are controlled by the Central Government and little is delegated to the provincial governments and the provinces.

\[2.3 \text{ Decentralisation and Deliberative Democracy}\]

Decentralisation is normally desired by people as a right for any government where people participate in the decision making process, compared to centralisation. Seshadri, V. noted that ‘centralisation is a threat to human the spirit everywhere and its control is a concern for all men who love freedom.’30 This is a common perspective that people have of centralisation. A common example can be seen in the highly centralised planning structures of the communist countries such as the former Soviet Union.31 To some people, the concept of decentralisation is synonymous with democracy, as individual liberty is associated with people’s participation under any decentralised system of government.32 The link between decentralisation and democracy is succinctly described by Muttalibe as follows:

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31 This is where there is a set planning structure designed purposely for the whole operation of the country.
With ethical roots in democracy, decentralisation has become an idealistic concept, a way of life and an end itself. It suggests a system in which people will be given an opportunity to perform their individual goals to the maximum.\(^{33}\)

Participatory or deliberative democracy is a term closely associated with decentralisation. Deliberative democracy engages in a wider consultation to gauge the views of people who are likely to be affected by any decision made. It further provides a voice or medium from which these views are made known. Therefore, it is agreeable that decentralisation refers to an achievement of a more participatory democracy beyond the normal methods of representation.\(^{34}\) Also it can be added here that participatory or deliberative democracy is directly linked to decentralisation in the sense that it is promoted through decentralisation.

There is also argument that decentralisation is the key to effective implementation of government plans and policies.\(^{35}\) In comparison to the centralised system, decentralisation appears to be more responsive to the public and would guarantee the improvement of quality and quantity of services. A good example of this perspective of decentralisation was the ‘bottom-up approach’ preached by the Sogavare government of 2007 in Solomon Islands. This approach was based on the concept of decentralisation where the public is the main decision maker based on their experiences in the bottom level of the state hierarchy. According to Gordon Nanau, decentralisation is therefore viewed from this perspective as a strategy to counter development problems, especially in the rural areas where government


\(^{35}\) Ibid, p.39.
services are largely non-existent.\textsuperscript{36} Also decentralisation promotes the welfare of the public and is inclusive in decision making. Participation by people in the decision making process gives them ownership and the willingness to contribute to development and the decision making process in the country.

\textbf{2.4 Justification for Decentralisation}

In his master’s thesis, Gordon Nanau outlines several aspects of decentralisation and the justifications for it.\textsuperscript{37} The six justifications are: 1) decentralisation and participation, 2) decentralisation as a development tool, 3) decentralisation for efficient decision making, 4) decentralisation as a uniting force, 5) decentralisation as a form of decolonisation, and (6) decentralisation and liberalism. For the purposes of this research I will concentrate on justifications 1 and 2, as a tool for participation in government decision making and development.

Decentralisation is often aligned with participation in decision making. The aim of decentralisation is to bring the government closer to the people so that they too can be involved in decision making. This can be achieved through various ways. For example, in Solomon Islands, in an attempt to bring the government closer to the people, the government created a provincial government system. Certain powers were devolved to the provincial governments. Provincial administrative headquarters and stations were set up as focal points for the provincial governments to interact with the populace. Area councils were also established as the provincial government link to the rural people. This illustrates the level of decentralisation proposed in the provincial government regime to link the people with the province and central government.

\textsuperscript{36} ibid.
\textsuperscript{37} ibid, p.40.
Participation is crucial in any system of government. Greater participation in decision making means that a government policy receives the backing of the majority of people. Therefore greater participation creates a sense of legitimacy and approval from the population. In countries where a large proportion of people live in the rural areas it is important that their voices be heard because they own the majority of the natural resources the country relies on for exports. Failure to involve resource owners in decision making could result in their reluctance to allow government or investors to extract their natural resources. Further still, decentralisation provides more opportunities for citizen participation in decision making.38 This in turn produces a healthy society as the government and people interact on a constant basis with each other and are aware of the issues facing each other. In summary, participatory democracy wants nothing less than full citizen participation in policy making, which can only be achieved through decentralisation of government powers and services.

Decentralisation as a development tool is a fundamental aspect of the concept of decentralization. There is a widely discussed notion that it is the absence of development in the rural areas that pushed isolated and frustrated provinces to demand a change in the government system in Solomon Islands. People are of the view that development can best be achieved in decentralised systems of government. Development plans and programs are more meaningful when drawn up by consensus among the people who are implementing them rather than by people based in the main towns and detached from the realities faced by the rural people.

Decentralising power and functions to regional or local levels of government further allows planners to identify the different groups and conditions in these areas and

38 Ibid, p.43.
accommodate these differences in their plans and programs. This is true when we look at a developing country like Solomon Islands and see there is little or no development at all in the rural areas and yet these people are the ones that own the resources. This is where decentralisation is important, because it will work with the resource owners at the ground level and ensure their natural resources are utilized and that they are the ones who get the returns.

2.5 Constitutionalism and Constitutional Reform

Constitutionalism and constitution are two distinct concepts. Constitutionalism is defined by S.N. Katz as “a process within a society by which the community commits itself to the rule of law, specifies its basic values, and agrees to abide by a legal/institutional structure which guarantees that formal social institutions will respect the agreed upon values.” On the other hand, a constitution forms the basis for political and legal legitimacy of any country or state. It is a document that incorporates all the important aspects of the running of a country or state. It outlines the important values of its subjects, the structural layout, powers and functions of the state.

Constitutionalism is a continuous process in many countries in the world today, including countries in the Pacific region. It is an important aspect of designing and re-designing the political structure of any country. A commentator on governance in the Pacific, Graham Hassall, noted that:

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39 ibid.
... [a] majority of these constitutional exercises have sought devolution and better regulation of politics, while others were related to self-determination, conflict prevention, and post conflict peace-building.\footnote{ibid, p.1.}

In situations where constitutional exercises are focused on devolution and better regulation of politics, the process is often gradual. This may result in amendments to the constitution or enactment of legislation endorsing such devolution. For example, in Tokelau a vote calling for self-determination did not succeed in 2006 and 2007 when the numbers fell short of the required two-thirds majority needed to obtain self-determination.\footnote{Radio New Zealand, 13 March 2007.} The votes were a response to demands from groups within Tokelau, demanding more devolution of power from New Zealand. The vote failed because there was reluctance by the majority of Tokelauans to secede from New Zealand.

Similarly other countries in the Pacific region\footnote{The best examples are Vanuatu, PNG, Tuvalu, Tokelau and Niue.} went through various measures to give more power or authority to the lower levels of governments. Papua New Guinea went through a lot of discussions on how best a provincial government system can operate in the country. From its past experience and challenges with the provincial government system it devolved identified essential powers to the provincial governments. Furthermore, the government of Papua New Guinea granted Bougainville autonomy to govern themselves with only powers relating international trade and security retained by the central government. The devolution of power to the provinces and autonomy to Bougainville has so far kept the provinces contented with the current political structure.
In Nauru a constitutional exercise was a mandatory response its 2007 financial crisis. As described by Hassall this is a unique form of state building but it does result in the commencement of a review of the constitution. In other countries in the region, such as Solomon Islands, Papua New Guinea and New Caledonia, constitutional exercises were part of post-conflict arrangements or recommendations. As mentioned earlier, giving autonomy to Bougainville was a response to the 1987-1997 Bougainville crises. Similarly, one can argue that the constitutional reform process currently being under taken in Solomon Islands is an immediate response to the 1998–2003 crisis. The same process can be seen in New Caledonia, where the French government granted extra powers to the indigenous people of New Caledonia after indigenous people had clashed with settlers. Nevertheless, the New Caledonia situation is, of course, far from being settled yet.

These modes of constitutional exercises or constitutionalism may also overlap. For example, the constitutional reform undertaken in Solomon Islands may well be a direct response to the 1998–2003 crisis. However, if one is to take a closer look at it, it is clear that the constitutional reform process is continuous. It started as early as the day the country gained independence. The 1998–2003 crisis was only a catalyst to intensify the pressure for constitutional reforms.

2.6 Westminster Unitary System v Federal (State) System

When Solomon Islands became independent from Britain it adopted the Westminster Unitary system of government. The Queen remained the Executive head of state, represented by a Governor General in Solomon Islands. The head of government, the prime minister, is voted in by the elected members of the

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legislature. The Westminster System operates in Solomon Islands via a strong central government, stationed in the national capital. Under this system the central government is responsible for policy and decision making in the best interests of the country. Ultimate authority, political and legal authority, remains with the central government.

It is the elected members of parliament, through a majority vote, that elects the prime minister, who in turn appoints the cabinet members. The members of parliament were voted into parliament by the members of the public through their respective constituencies during the national general elections. Each member of the cabinet appointed by the Prime Minister is responsible for a particular ministry. These ministries are responsible for the implementation of the government policies and plans. Policy making, though, is in the hands of the ministers, under advice from his or her secretaries and department heads.

Under the Westminster unitary system of government usually a second tier of government is set up, but is subordinate to the central government. In Solomon Islands, this second tier of government is the provincial government. Certain powers and duties have been transferred from the central government to the provincial governments based in the provincial headquarters.

The Westminster unitary system of government is not fully supported by the traditional and cultural set up of Solomon Islanders. Solomon Islands is no made up of a single group of people; instead, it contain a cluster of different island groupings.

45 See Chapter 5 of the Constitution of Solomon Islands, 1978, it clearly identifies the roles, functions and powers of the Executive.
46 ibid.
with different ideologies. The concept of nationalism is not appreciated by the people – rather, people have a greater sense of responsibility towards their own kind or wantoks.\textsuperscript{49} Because of these marked differences Solomon Islanders rarely identify themselves as being ruled by any particular ruling government. Their loyalty lies with their own respective traditional governance systems.

A federal system of government would offer a more workable solution to the governance problems faced in Solomon Islands. Under the federal system power is divided between different levels of government. The federal government deals matters relating to the nation as a whole and states deal with issues within their jurisdiction. The federal government normally remains intact, with members elected from the states. The only powers that may remain with federal government may include international relations and law and order. The states and the federal parliament operate as coordinated units instead of being subordinates of the federal parliament.

Two countries in the region that operate federal systems are Australia\textsuperscript{50} and the Federated State of Micronesia (FSM). In Australia, the Commonwealth Parliament is the central government that makes laws for the whole country and looks after matters relating to collection of taxes, international relationships, and the security of the country. Each state also has its own constitution, parliament and court system. The FSM also operates a similar system with the Congress of the Federated States of Micronesia acting as the main law making body.\textsuperscript{51} The president of FSM is elected from the four elected members from the four different states. Each state also has

\textsuperscript{49} The term wantok is a reference given by someone towards another person who speaks the same language as he/she is. The term also varies, depending on the context; it can also refer to a friend from the same island or province. When overseas, Solomon Islanders from any part of the country used the term to refer to each other, an indication that they were from the same country.

\textsuperscript{50} With the recognition of the Queen as the Head of State, quite often the system in Australia is referred to as a Constitutional Monarchy; nevertheless, it is still a federal.

\textsuperscript{51} Constitution of the Federated State of Micronesia (FSM), 1979.
elected members in the state legislature and executive governments. It is from these neighbouring countries and others such as South Africa that Solomon Islands modelled its proposed federal system of government.

2.7 Level of Participation in the Westminster system in Solomon Islands

The level of participation in Solomon Islands under the Westminster Unitary system of government is far from what was envisioned in the 1978 Independence Constitution. There is a huge gap between the promise of popular participation and the reality of such participation. For instance, there are provisions in the Constitution that empower Parliament to make laws for the integration of traditional leadership structures into the formal government system. This has never been done at the national level in Solomon Islands. Even an attempt to integrate the traditional chiefs and elders into the provincial assemblies was later criticised and was never established.\(^\text{52}\)

The current unitary system still resembles the colonial system of government, it is just the personnel that changes hands. In reality, Solomon Islands remained subdued by a colonial mentality from which they need to free themselves. According to renowned Constitutional law commentator in the Pacific, Yash Ghai,\(^\text{53}\) the colonial bureaucratic system had “... stifled people’s initiative, enthusiasm and induced a sensed of dependency on officials.”\(^\text{54}\) The structure of government adopted through the Westminster system had inadvertently placed power in the hands of the public service rather than the people whom the public service was supposed to serve. For

\(^{52}\) See the case of Guadalcanal Provincial Assembly v Speaker of National Parliament (26 February 1997) Unreported, High Court, Solomon Islands, Civil Case 309/1996.

\(^{53}\) He is one of the architects of the Solomon Islands Independence Constitution, See Ghai, Y. 1980, “State, law and participatory institutions: The Papua New Guinea experience. Paper delivered at the conference Law in the Design and Administration of Strategies of Alternative Development, University of Warwick, p.36.

\(^{54}\) Ibid.
example, the permanent secretaries and department heads are responsible for the implementation of government policies, and often the implementation rest on the discretion of these officials.

The Westminster system lacks the necessary ingredients for success in participation such as accessibility and ownership. At present, power is retained by the central government in Honiara. Government services are difficult to access for the majority of Solomon Islanders in the rural areas. Solomon Islanders continue to argue that decisions should be made by the people to whom the issues at stake are meaningful, easily understood and relevant. They pointed out that the existing system of government should therefore be restructured, and power should be decentralised, so that the energies and aspirations of our people can play their full part in promoting our country’s development.

A renowned researcher in provincial government systems in the Pacific, J. Crawly, wrote in his “Bureaucratic response to provincial governments” paper delivered at the University of Papua New Guinea in 1982 that with the continuing assertiveness of many provincial governments and a weakening of the central bureaucracy’s ability to control them, the centre’s dominance is declining. He noted that with time, the central government’s control over provincial governments will diminish, leaving the provincial governments with more powers to run their own affairs.

This is not the case for Solomon Islands – with each passing year the control that the central government has on the provinces gets tighter than before. It should be remembered here that the provincial governments were established with great

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reluctance and in such a way as to enhance control from the centre and to limit the powers of the provincial governments. This control continues to be exercised by successive central governments in Solomon Islands by way of suspension of provincial governments or removal of various provincial government bodies. For example, in the past the Honiara City Council and the Rennell and Bellona Provincial Government were dissolved by order of the Minister of Provincial Governments on allegations of failure to hold assembly meetings and misappropriation of provincial funds.

Further still, in 1999 the Ulufa’alu Government (SIAC) suspended the area councils, a part of the provincial government that was closer to the rural people. The Provincial Government Act (1997) of Solomon Islands provides for the establishment of a Provincial Assembly and Area Councils. The Provincial Assembly is made up of elected members from the different wards. The elected members in turn elect the Premier. On the other hand, the area councils were the lowest level of government in the provincial government system of Solomon Islands. Area Councillors were elected by ward voters into the area councils, and they in turn elect an area council president who presides over the area council. The Area Council works together with the provincial government in dealing with issues of relevance to their respective areas. The abolishment of the area councils meant that the national government’s closest link to the rural communities has been terminated, leaving a majority of Solomon Islanders far from participating in government policies.

2.7 Conclusion

This chapter provides some theoretical explanation of the key concepts this research encountered. It is hoped that when reading the remaining chapters of this research one could use these concepts to put the rest of the discussion into context.

Decentralisation for the purposes of this research is mainly associated with power. It refers to the power to make decisions at the lowest level of the government in Solomon Islands. It is this power that is currently lacking. As a result, all other aspects of governance fail to materialise. For instance, at the moment the power rests with the central government in Honiara, and rarely goes beyond the provincial headquarters. This has resulted in the concentration of development and key government services in Honiara and the other provincial centres.

Decentralisation is also associated with the concepts of deliberative democracy and participation. Solomon Islanders want to be part of the government and are prepared to participate in the operations of the government, including contributing to policies and laws made by the government. A failure to involve the rural people is an indicator of a government unwilling to consult or take into consideration its people’s views on issues considered important to people.

This paper alleges that indicators of decentralisation and local participation are missing in Solomon Islands. It further argues that the Westminster system has failed to deliver to the people, creating a gap between the urban centres and the rural areas. This gap is evident in the level of development that has taken place in these respective areas in Solomon Islands. To balance this equation, Solomon Islanders feel that there needs to be an overhaul of the current system.

The next chapter looks at Solomon Islands and its constitutional reform issues. It gives a description of Solomon Islands before looking at the process of constitution
making in the country. The chapter further discusses the constitutional issues facing Solomon Islands before and immediately after Independence.
CHAPTER 3: SOLOMON ISLANDS AND ITS CONSTITUTIONAL REFORM ISSUES

“For many Third World Countries independence is an occasion marked by united, nationwide, jubilation: the colonial master is at last evicted, and the people now control their own political destiny. But, for the Solomon Islands, as much uncertainty as joy, attended the independence celebrations on 7th July 1978. The country’s western province ... boycotted the official festivities ... when attempts to raise the national flag led to confrontations between people of the province and migrant Malaitans.” (News Drum, 21 July 1978)60

1. Introduction

Solomon Islands was on the brink of anarchy in the years following the 1998–2003 crisis. The country was rescued from being considered as a totally failed state by the Regional Assistance Mission to Solomon Islands (RAMSI), an Australian led mission to Solomon Islands. The mission’s aim was to restore law and order in the country. This was achieved and the mission is now scaled down to administrative and training duties, though the presence of military personnel is maintained in the country.

The years following these events have been considered as the toughest years faced by the various governments that came into power and ordinary Solomon Islands citizens alike. In attempting to pick itself up, the country has made attempts to re-assess the political and governance systems to determine possible causes of the problem. To re-assess itself successfully, the country needs to take another look at the events leading up to the ethnic tension, particularly the demands for reforms in the political and government system.

61 RAMSI – Regional Assistance Mission to Solomon Islands. Participating countries include, Australia, New Zealand, PNG, Fiji, Vanuatu, Tonga, Samoa, Tuvalu, Nauru, Kiribati, Niue and Tokelau.
There is a common feeling present amongst Solomon Islanders that a new political structure is needed to bring lasting peace and unity and further development to the country. The new political structure should give more power to the resource owners to take a greater share in decision making on the use of their resources. A draft federal constitution needs to attempt to facilitate the aspirations of Solomon Islanders. As such, the Government has taken a step in developing a Draft Federal Constitution in anticipation of such political changes.

This chapter highlights the constitutional reform issues facing Solomon Islands. It will first provide a general geographical, socio-economic and political description of Solomon Islands. Secondly, this chapter looks at the process of constitution making in the country. Finally, this is followed by a discussion of the constitutional issues the country faced before and after gaining independence from Britain.
3.2 Solomon Islands

Map 3.1 Solomon Islands, showing the provincial boundaries from independence until 1991.

Map 3.2. Provinces of Solomon Islands after 1993

This map showed the 9 different provinces in Solomon Islands after 1993. This map is used as the proposed boundaries of the different states once the federal system of government is approved by Parliament.
Solomon Islands comprises a group of archipelagic islands stretching over 840 miles in the South Western Pacific. It has a land area of approximately 30,407 sq km stretched over a sea area of 1,280,000 square kilometres. The six (6) main islands within this archipelago are Guadalcanal, Malaita, New Georgia, Choiseul, Isabel and Makira. The country shares borders with Papua New Guinea in the west and Vanuatu in the east.

The country is composed of diverse cultures, languages and customs. The people speak sixty five different languages and feel a strong distinctive allegiance towards their own clans, compared to the notion of a unified national loyalty in a state system. It has a population of approximately 527,000 people made up of 94.5 per cent Melanesians, 3 per cent Polynesians and 1.2 per cent Micronesians. Other minority groups in the country include the Chinese, Europeans and other Pacific Islanders.

The nation was formerly a British protectorate until it gained its independence in 1978. The system of government and legal system in Solomon Islands is virtually introduced from abroad. It adopted the Westminster model of government (constitutional monarchy) with the Queen as the head of state and the Prime Minister as the head of the government. The National Parliament has 52 members, each representing the 52 constituencies and elected for a term of four years. The electoral system is ‘first-past-the-post’ or ‘simple plurality’. Suffrage is available to all citizens who are 18 years old or above. The state power was manifested in three areas, namely the legislature, judiciary and the executive. The country is further separated into provinces as envisaged by the Constitution and provided for by virtue

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63 See Appendix III for a map of Solomon Islands, courtesy of World Atlas.com maps.
of the 1981 Provincial Government Act. Seven provinces were initially created in 1981; with two additional provinces later pronounced in 1991 and 1992 respectively. The intention in creating these provinces is to ensure that the central government is represented at the local level.

About 85 percent of the population engages in subsistence farming, obtaining food by gardening and fishing, and has little involvement in the cash economy. Approximately 10 to 15 percent of the working populations (i.e. those of 15 years and over) are engaged in non-subsistence production. Although exports, particularly of unprocessed logs, have boomed, the number of wage earners has remained unchanged for the past several years despite the high population growth rate.

High population growth rate and migration to urban centres continues to place additional pressure on infrastructure and increase in demand for essential services such as water, sanitation, housing, education and health services. The literacy rate in Solomon Islands is low and access to primary and secondary education is very limited. The country also has one of the highest malaria infection rates in the world.

3.3 The Constitution Making Process in Solomon Islands

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66 Choiseul in 1992 (separated from Western Province) and Rennell and Bellona in 1991 (separated from the Central Province).
69 UNICEF country information, 2009.
70 ibid.
71 ibid.
72 ibid.
A constitution is the basis for political and legal legitimacy.\textsuperscript{73} It represents the will making power of the people and is the authority for them subjecting themselves to certain political and legal institutions. This is regarded as the social contract; a contract between the governments or whoever is in power and the people who gave them power to rule.\textsuperscript{74} It creates a social contract, where people grant power to the government to govern in return for better services.

However, according to Peter MacFarlane (2005), for a Constitution to fulfil its role as giving legitimacy to lawmakers, as a unifying force for its people and as an agent for peace, certain conditions need to be met.\textsuperscript{75} This includes the inclusive and participatory process of constitution making, which must align with the lives, traditions and aspirations of the people. These are key factors that were often missing from the constitutions that were drafted by the colonisers upon granting independence or self-control to island countries. Some island countries have taken the necessary measures to replace these remnants of their colonial legacy with more relevant and meaningful amendments or changes; but there are others who are still in the process of overhauling those colonial legacies.

The current Constitution (1978) of Solomon Islands was designed by legal draftsmen hired by the colonial powers.\textsuperscript{76} In other words, it did not come into effect as a result of any popular vote; but rather through an Act of Parliament by the British Government.\textsuperscript{77} This portrays the hallmark of a weak constitution, where the will of

\textsuperscript{74} ibid.
\textsuperscript{75} ibid.
\textsuperscript{76} Yash Ghai was one of the two legal draftsmen hired to work on the Solomon Islands Independence Constitution.
\textsuperscript{77} Solomon Islands Independence Act of 1978.
the people was not considered important. There had been contentions that not much of the Constitution bears the contributions of the general population, let alone the fact that the final debate over the Constitution, which was held in London, does not reflect any input from ordinary Solomon Islanders. This led to underlying concerns and suspicions amongst Solomon Islanders as little recognition is given to any need to facilitate decentralisation of the government, its mechanisms and powers. The Western Province showed their discontent of the system of government adopted by the country by boycotting the independence celebrations. Most Solomon Islanders align themselves with their provinces rather than with a single state established by the Constitution. This shows lack of support and understanding of the content of the Constitution.

3.4 Constitutional Issues prior to independence and after independence

Prior to independence national and provincial leaders raised a number of constitutional issues as part of a determination towards the identification of a political system for the new country. These include, inter alia, the method of government to be adopted, the function of traditional authorities, and the resentment towards foreigners who had been re-settled in the Solomon Islands by the British Colonial administration and given freehold title to land.

Solomon Islanders had shown their dissatisfaction with the way the islands were administered well before independence. The British, as the colonial administrator, had always centralized all government administrative bodies and operations in the

79 Kenilorea, P. 2008, Tell it as it is, p.223.
80 Prior to Independence, the British administration settled a large number of Gilbertese from Christmas Island in locations such as Wagina in Choiseul Province and Gizo and Shortland Islands in the Western Province.
government headquarters in Honiara. This resulted in a lack of development and distribution of services to the rural communities.\textsuperscript{81} Even after independence, successive governments failed to address the important socio-political issues facing the country; such as nation-building, land ownership, large scale resource development, the distribution of development benefits, urban growth, urban migration and poor economic growth.\textsuperscript{82}

In 1975 and the years preceding independence, a number of consultative meetings were carried out by government officials in the country to identify a suitable political system for the country. National and district leaders made various submissions on this issue to these government officials. Some districts were concerned about the imminent loss of status in the economic sphere once a weak political system was established in the new country.\textsuperscript{83} A submission by the Western District of Solomon Islands raised the fear that without a form of government that could create a united nation through the respect that people have towards their regional differences, the effects of the current government structures, powers and functions would overrun the numerically weaker regions by the numerically stronger nations.\textsuperscript{84} This call reflected the fear that certain regions have towards the ever increasing presence of Malaitans in the different regions or district. A federal system would provide regions control over issues of migration and re-settlement within them.\textsuperscript{85} The people of Guadalcanal raised similar sentiment in 1978, when a petition was delivered to the government. Similar to the western demands, the Guadalcanal petition also

\textsuperscript{84} ibid.
\textsuperscript{85} ibid.
demanded that other migrant Solomon Islanders respect traditions and cultures of the host people.\textsuperscript{86}

Furthermore, in its submission in 1975, the Western Council demanded that whatever structure and principles of government was adopted should reflect the different cultures, ethnic divergence and the wishes of the people.\textsuperscript{87} Inadvertently, the system of government visualized by Solomon Islanders was not the Westminster centralized government system established by the 1978 Constitution. As indicated in the submissions, people opted for the federal system of government which they see as providing them more autonomy.

The colonial government’s failure to pay attention to the demand for a system of government that could enable mass participation from the people in government led to the formation of the Western Breakaway Movement.\textsuperscript{88} The Movement came out quite strongly immediately before independence in 1978. One of their core calls was a demand for a federal government system for the country. The movement worked closely with the Western Council and was of the view that the federal system of government would be most appropriate for the country as it would cater for the devolution of power and the equitable distribution of development benefits. The demands of the movement involved the call for full control by the western Solomons over its own finance, natural resources, internal migration, land, legislation and administration. Government failure to meet these demands could result in the non-participation of the western Solomons in the independence celebrations.\textsuperscript{89}

\textsuperscript{88}ibid. p.34.
\textsuperscript{89}ibid. p.14.
The central government’s response to the demands of the western Solomons and the western movement, according to Ralph Premdas, took the form of limited concessions and rational bargaining.\(^{90}\) A deal to include western leaders in the top echelon of the government was agreed to, with the Deputy Prime Minister post given to Billy Hilly and the Speaker of the House post given to Maepeza Gina, both from the western Solomons.\(^{91}\) This defused the tension between the parties; however, it did not address the demand for a federal system of government for the country.

Immediately after the 1977 Constitutional Conference, a special committee known as the Kausimae Committee was established with the aim of establishing a provincial government system suitable for the soon to be independent Solomon Islands. The Committee engaged in an extensive tour of the country to collect the views of the people on the type of provincial government system people wanted. This committee was commissioned with strict guidelines; to identify a simple, less expensive and more easily operated system of government.\(^{92}\) In other words, the guidelines had already limited the scope of the committee. Nevertheless, one of the key recommendations of the committee was to adopt a quasi-federal system of government, backed by popular demand from the people for a federal system.

In 1987 a constitutional reform committee was appointed to reconsider the 1978 Constitution.\(^{93}\) This was the first systematic review of the constitution since it was

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\(^{90}\) ibid. p.16.

\(^{91}\) ibid. p.18. Additional posts were later allocated to other prominent western Solomon leaders. For instance, in 1978 Isaac Qoloni and Milton Sibisopere were given political appointments to appease the dispute with the central government.


The aim of the review was to re-look the system of government put in place after independence and the achievements it gathered in the previous ten years. The report was of the view that the 1978 Constitution, which was enacted by a foreign parliament and embodying foreign ideas, was no longer appropriate for the country. It was of the view that the country’s political ideas must now pay attention to the long-term interest of Solomon Islanders, including reference to the wisdom and authority of chiefs, cultural diversity, indigenous ownership of land and natural resources, and the rights of communities and clans as well as individuals. The report *inter alia* recommended a federal system of government, which was perceived as the ideal formula for the country’s political structure. It also highlighted the need to control the movement and settlement of people throughout Solomon Islands; both related to the need for a federal/state system of government. The call for a federal system of government during the 1987 consultation was supported by the majority of provincial premiers; an indication of the peoples’ desire for a change in the system of government.

The 1987 report was not seriously considered by the government at that time and was heavily criticized for being heavily dominated by politicians’ interest to obtain or maintain support from the provinces seeking a federal system of government. One prominent political figure heavily involved in the 1987 report was Solomon

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96 ibid.
Mamaloni, whose imprints were dominantly notable in recommendations. For example, in many of his speeches he referred to Solomon Islands as a nation conceived but never born, instead, he saw it as a nation of islands and individual tribal units. And the federal system of government promotes his ideology.

In 1988 the people of Guadalcanal again brought their demands to the attention of the Government. This was in response to multiple murders committed by a group of Malaita men on Guadalcanal. The Guadalcanal people demonstrated and presented their list of demands to the government. One of the issues consistently raised among their demands was the need for the establishment of a federal system of government for the country. People felt that there is a need for provinces to be given powers to govern their own people and resources. With such power and authority, each province would be in a better position to run its affairs and control the wave of internal migration that is sweeping people towards Guadalcanal.

Approximately ten years after the 1987 Mamaloni report and the Guadalcanal demands were submitted, the Guadalcanal people’s demands resurfaced. This time the youths were more persistent and determined to see the government respond to their demands, including the call for the federal system of government. They started using guns and machetes to evict people from other islands from areas around Guadalcanal. By 2000, the number of people, mostly Malaitans, evicted from Guadalcanal had risen beyond the 20,000 people mark. The Malaitans

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102 Tuhanuku, J. 2000, Solomon Islands, ANU.
responded in kind by creating a force to counter the Guadalcanal militant’s advance towards Honiara city.

The outcome of these events threw the country into a disarray as key government institutions such as the police were compromised, leading to a period of lawlessness and brutality as the government struggled to re-gain control over the country. The events also led to the closure of key industries such as the Solomon Islands Plantation Limited, Gold Ridge Mining, Solomon Taiyo and other smaller businesses. The task of bringing normality back to the country was further made difficult as rogue government officials and police officers took advantage of the situation for their own selfish gains. For example, in 2001 huge amounts of money were paid out to those who lost their properties during the crisis, and high on the list was government officials, including Members of Parliament. Similarly, police officers often harassed finance officials over allowances without being prosecuted.

3.5 Conclusion

According to this chapter the underlying reality is that the Westminster system of government does not meet the expectations of Solomon Islanders. The majority of Solomon Islanders in the rural areas are finding themselves further away from the government and its services. Solomon Islands socio-political complexities had undermined the current system of government from the day the country attained independence.

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Sir Baddeley Devesi reiterated the plain truth that Solomon Islands had adopted a British system that does not fit its context.\textsuperscript{107} It has taken a major conflict\textsuperscript{108} for the country to realize the need for constitutional reform, thus placing Solomon Islands in Hassall’s category of engaging in constitutional reform as a result of post-conflict peace-building.\textsuperscript{109} This chapter showed that though Solomon Islands may pride itself on its unity and diversity; the plain truth is that the different ethnic groups are as suspicious of each other as they were before the arrival of Europeans. In the words of Solomon Mamaloni, a former Prime Minister, Solomon Islands “was a nation conceived but never born.”\textsuperscript{110} In other words, what he meant was that there was a lack of patriotism or national consciousness by Solomon Islanders towards the state or nation. People aligned themselves with their own traditional affinities or island groupings.

The continuous call for the federal system of government as highlighted in this chapter showed Solomon Islanders’ understanding of the problems facing the country. It is clear that Solomon Islands is a country of many people with different cultural groupings. What the leaders of the country lacked was the vision to turn this country of many different people into a nation where the wishes and aspirations of people are recognized in how they want the country to be governed. As Edward Wolfers (1982) has identified, decentralization is regarded as a tool for bringing


\textsuperscript{108} 1998–2003 crisis. It should noted that sometimes these paper will refer to this crisis period as 1998–2000 or 2000–2003. The 1998–2000 period marked the events that took place prior to the Townsville Peace Agreement (TPA), the 2000–2003 period marked the events that took place after the TPA. However, the overall period of the crisis should 1998–2003.


government closer to the people.\textsuperscript{111} This remains the wish of all Solomon Islanders; to bring the government and development closer to them.

The next chapter looks at the Townsville Peace Agreement of 2000. It is the view of this paper that the Agreement is the catalyst for the change in approach towards the issue of constitutional reform in Solomon Islands.

CHAPTER 4: THE TOWNSVILLE PEACE AGREEMENT

4.1 Introduction

The Townsville Peace Agreement was signed by the Government of Solomon Islands and the two warring factions, Malaita Eagle Force (MEF) and the Isatabu Freedom Movement (IFM), to bring an end to fighting and hostilities in the country. Solomon Islands had experienced the worst conflict between two island rival groups over a number of issues, including land ownership and respect to the host island’s customs. A number of agreements had been signed in the previous two years to put an end to hostilities, but most failed as fighting continued between the parties.112

In early October, 2000, the Australian Government offered to assist the Government of Solomon Islands to get the parties to negotiate an agreement to stop the fighting. About 130 delegates (MEF, IFM and Government) were airlifted by Australian military aircraft to the Air force base in Townsville. Talks formally began on 10th October and were meant to last for four days.113 However, talks stalled and a further two days were required before all parties reached an agreement. The agreement signed on the 15th of October 2000 became known as the Townsville Peace Agreement (TPA).

This chapter looks at the Townsville Agreement. It is the view of this paper that the TPA re-ignites the government’s commitment to the constitutional reform process in the country. This chapter will first look at the specific terms of the TPA that are of interest to this research. Secondly, this chapter will discuss the call for constitutional

reform as highlighted in the TPA. Thirdly, this research will discuss the implications of the TPA for Solomon Islands in terms of constitutional reform. Finally, the research paper will look at the aftermath of the TPA in terms of the immediate steps taken by the responsible authorities to implement the specific terms of the TPA with regard to constitutional reforms.

4.2 Terms of the Townsville Peace Agreement

The Agreement has nine sections. Part one identifies preliminary issues, which include the scope and mandate of the representatives. The agreement applies to both the Malaita and Guadalcanal provinces and future national governments. Likewise, the agreement recognizes persons acting in their capacities as representatives of the parties as having full representational mandate by their respective organizations to act as leaders. This is important to the agreement, to ensure members of these respective groups respect the terms of the agreement.

Part two looks at national claims and war claims. It provides for the protection of members of the Disciplined Forces involved with the militant groups from losing their jobs in the force. This part also touches on other important issues such as amnesty, rehabilitation and demilitarization of members of the armed factions. It also endorses the free movement of people throughout the country. This part of the agreement is vital to the successful signing by the factions because it provided them with some sense of security from being prosecuted or dismissed from their jobs.

Part three requires members of the warring parties to identify and recover the bodies of persons killed or considered missing during the course of the fighting. This is important in the restoration of law and order and a beginning to reconciliatory measures between the relatives of the victims and those involved with the armed
groups. This part also places responsibility on the government to provide for employment of those who lost jobs or compensation for property lost as a result of the fighting. Presumably, the aim of this provision is to ensure that those who were directly affected by the crisis can re-start their lives.

Part four promises constitutional reform and economic, social and infrastructural assistance to Malaita and Guadalcanal provinces. Under this part, the government pledges to carry out developments in areas identified for the provinces by the parties. The purported aim of these developments is to rehabilitate the people from these two provinces to their respective homes so that similar conflicts can be avoided. The important provision of this part is the demand for constitutional reforms. This was the ultimate goal of the Guadalcanal people and it is recognized here as an important part of the agreement.

Part five provides for reconciliation between parties and the establishment of a peace and reconciliation committee with the mandate to oversee reconciliation in the country. Part six provides for the establishment and roles of the peace monitoring council in the country.

Part seven identifies the government of Solomon Islands as the sole guarantor or authority to shoulder the expenses incurred by the parties in implementing the agreement. This is a task the government must undertake to ensure the warring parties respect and uphold their promises. It covers, for instance, expenses incurred during the returning of arms by the warring faction members to their leaders.

Part eight is a general declaration by all parties to give up fighting and to restore peace and harmony to the country. The final part recognizes the presence of other issues that need to be dealt with separately, for example, the issue of the Malaita-
speaking people who had settled on Guadalcanal and had called it home for years.\footnote{One pressing issue that was agreed for separate handling was the issue involving the Marau Eagle Force, an arm of the Malaita Eagle Force formed by Malaitan settlers who migrated to the Eastern part of Guadalcanal and had settled there for generations.} Similarly, it reiterates the presence of past peace settlements\footnote{Such as the Honiara Peace Accord (1999), Marau Communiqué (1999), Panatina Agreement (1999), Auki Communiqué (2000), and the Buala Peace Communiqué (2000).} and their role and validity in trying to restore peace to the country.

**4.3 Call for constitutional reform**

Under the Townsville Peace Agreement, Section 1 (a) of Part 4 states that Malaita and Guadalcanal Provinces shall be given more autonomy by devolution or by constitutional amendment to effect self-governing status. This is to allow the people of Malaita and Guadalcanal to look after their own affairs and to provide for the needs of their growing population. Part 4 (1) of the Agreement further provides for the establishment of a Constitutional Council with authority to ‘re-write’ the Constitution and give more autonomy to them. This part recognises the importance of decentralisation and development and the need for these two provinces to determine their own development and political destiny. It aims to rectify the specific problems that were identified in the preamble to the Constitution of Solomon Islands.\footnote{“AND WHEREAS the parties after continued negotiations in their search for and the desire to find the most appropriate solution for lasting peace in Solomon Islands...”} It is through measures such as these that a lasting peace can be achieved.

Furthermore, a closer look at Part 4 of the Agreement will show the finer lines of the unwritten nature of the terms in this part. It can be seen here that this section of Part 4 has all the imprints of the Guadalcanal representatives.\footnote{Both the Guadalcanal Province and the Isatabu Freedom Movement.} The call for more autonomy for the provinces had been the wish of the Guadalcanal people since
independence, whereas, the Malaitan people chose to remain silent on this issue. \footnote{Despite showing support for decentralisation and the need for a federal system of government in past constitutional reviews and provincial government surveys, the people of Malaita had always maintained the passive stand on the issue of state government. For example, in August 2000 the Premier of Malaita Province declared Malaita’s committal to remain part of a united Solomon Islands. See Fugui, J.M. 2001, “Solomon Islands,” The Contemporary Pacific, Volume13, Part 2, p.553.} However, if one is to look further down Part 4, one can see that this part is clearly demarcated in terms of the demands of the two warring parties. Two issues in this part were purportedly in favour of the Guadalcanal party (Political Issues and Land and Property Claims) whereas the Malaitan party settled for the financial benefits with arrangements for the National Provident Fund (NPF) to set up a separate superannuation fund for Malaitans. The final section of Part 4 is on social issues, with both Malaita and Guadalcanal provinces being promised various infrastructure projects. This illustrates the nature of the Agreement as the final outcome is determined by the parties. It also illustrated the combined efforts of the parties to accommodate each other and their claims to achieve a lasting solution to the armed conflict in the country.

Though Malaitans may not be keen on federalism, the call for autonomy and development provide them the best opportunity to pursue economic development on their island. Thus, the call for constitutional reform is may be considered as a blessing in disguise to the island, to see a commitment towards development on the island by the central government and other stakeholders.

4.4 Implications of the Townsville Peace Agreement

The Townsville Peace Agreement marked a very important chapter in the history of Solomon Islands. To Solomon Islanders, the TPA represents peace – an occasion in history where the warring parties had decided to put their differences aside for a shot at lasting peace for the country. The MEF spokesman, Andrew Nori, declared
during the signing of the TPA that the ‘war on Guadalcanal was over’. ¹¹⁹ This has gone a long way to mean that there will be no more fighting between the parties. The signing of the TPA was met with joyous celebrations on the streets of Honiara as former combatants celebrated hand in hand for three days.

The TPA also represents a very important undertaking by the Government to ensure it plays its part in implementing the Agreement. The constitutional reforms remain a major undertaking by Government as it progresses in an area described as best avoided by previous governments. Past experiences had shown that attempts to bring about constitutional change either failed¹²⁰ or were opposed by stakeholders in favour of cheaper and less expensive alternatives. Or further still, reform findings were shelved and never considered by previous governments.¹²¹

On the other hand, it can be argued that the TPA marked the end to Solomon Islands as a united country. It created disharmony as only two parties or provinces benefited while the rest of the provinces in Solomon Islands gained nothing out of the Agreement. This was evident in the call for autonomy or independence by provinces after the signing of the Agreement. Prior to the Agreement there was minimal or a passive call for autonomy, and mainly from the only two key provinces of Guadalcanal and Western. However, the Agreement ignited the desire by other provinces to seek autonomy from the central government as they felt neglected by the government’s commitment to the Agreement.¹²² For instance, the Western Province and Choiseul Provinces declared themselves separate states;¹²³ Makira

¹²⁰ For example, the propose changes to the Provincial Government system in 1996.
¹²¹ For example, the findings of the Constitutional Review Committee (Mamaloni Report) in 1987 were never considered by any previous Solomon Islands governments.
Province also indicated their interest in becoming a separate state,\(^{124}\) and Temotu and Rennell and Bellona Provinces opted for separate independent states. All these were seen as responses by these provinces to the TPA and the orientation of its terms towards Malaita and Guadalcanal Provinces.

According to Fred Fono\(^{125}\) the opposition’s perspective was that the Agreement was a catalyst for division in the country as the government spends resources and finance on it, neglecting the other seven provinces and their immediate need for development.\(^{126}\) The National Council of Women (NCW) condemned the Agreement because it did not promote national unity.\(^{127}\) It was regarded as the catalyst for the disintegration of Solomon Islands.

**4.5 The Aftermath of the TPA: Immediate steps towards a Draft Federal Constitution**

Immediately after the signing of the TPA, a provincial premiers’ conference was organized by the Government for all the Provincial Premiers. The aim of the meeting was to get the premiers together to discuss issues of concern to them after the crisis. The venue was Buala, Isabel Province’s headquarters. The conference was lauded as a milestone for relationships between the provinces. For instance, the premiers of Malaita and Guadalcanal provinces used the event to seek reconciliation and forgiveness from other provincial heads for the involvement of their people in the crises. The Premier of Malaita Province, David Oeta, apologized to all Solomon Islanders for the wrongs committed against them by the people of Malaita.

\(^{124}\) Solomon Star, 6 July 2000.
\(^{125}\) MP for Central Kwara’ae (Malaita Province) and a member of the opposition party during, and after the TPA Agreement.
\(^{126}\) fono, F. 2001, “Solomon Islands Current Issues and Politics,” Transcript of SSGM Seminar, ANU.
\(^{127}\) Radio New Zealand, “Council of Women says Malaitan Autonomy bill is a cover up for Peace Agreement failure”, 16th September 2002.
According to Gordon Nanau, all the provincial leaders acknowledged that the events of 2000 marked the darkest hours of the country’s history. It was the first time two ethnic groups had used fire arms to fight each other, resulting in loss of lives and great destruction to the infrastructure and industries.

The Buala Premiers Conference agreed on three key resolutions;

(1) That Solomon Islands Government adopt a homegrown state system of government whereby each respective province should become a state with its own state constitution.

(2) That the Solomon Islands Government take to Parliament at the earliest opportunity the desire of the Provincial Governments to amend sections 114 and other relevant sections of the Constitution to give effect to resolution number 1.

(3) That the Solomon Islands Government take note of the desires of Temotu, Makira/Ulawa and Rennell & Bellona provinces.

The Buala Conference was followed by the appointment of a team to re-visit the recommendations of the Constitutional Reform Committee report of 1987. According to Nanau, the task force completed its task and Cabinet approved the report in June 2001. This report formed the backbone of the draft federal constitution.

In practice, the government had adopted resolution two with the proposed state/federal system. At the moment the government is still preoccupied with resolution two. It was envisioned that once the final draft of the federal constitution is ready Parliament will invoke section 114 of the Constitution (1978) to bring about

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129 All resolutions adopted from Nanau’s “Uniting the fragments,” p.19.
130 Ibid.
the necessary changes. Resolution three of the Buala Conference remained untouched by the government at the moment.

4.6 Conclusion

This chapter elevates the Townsville Peace Agreement as the key document that re-ignites the national interest in constitutional reform. It sets the platform for a renewed interest by the government and stakeholders to explore again the possibilities of changing the system of governance in Solomon Islands. Arguably, the demand for the federalism system of government under the auspices of more devolution of powers is engineered by the Guadalcanal party. This was one of their core demands prior to the crisis and it is fitting that it is recognized in the Agreement.

This chapter further shows the quick response taken by the government to explore this section of the Agreement as vital to keeping the momentum. It ensures that the government was seen as keeping its part of the bargain. This is also vital as the national security of the country hinges on the government’s commitment to the Agreement as well. The success of the Agreement was twofold: 1) it stopped all fighting between the warring factions; 2) assured the two provinces of development; and 3) it gave renewed optimism to the government and Solomon Islanders to explore the federal system of government.

On the other hand, we should not get carried away with the Townsville Peace Agreement. It must be remembered while looking at it that the Agreement is made between two warring parties and the government. The paramount interest at that time was to restore peace and return law and order to the country. As such, the terms of the agreement are normally coined according to the wishes of the parties,
and the government as a party is obliged to meet their demands to attain peace. For instance, the exorbitant demands of the two parties for socio-economic developments and infrastructure are realistically unachievable. Yet because of its commitment to peace the government agreed to these terms.

The former National Peace Council Chairman, Paul Tovua, rightly pointed out that...“all these were written without thinking about the finance and without conducting prior economic assessments.” This leaves us with the question of how much of the Agreement was written without thinking. This is an interesting question; one that can only be answered by assumptions from the terms of the agreement and their practicality in terms of implementation. For now, this research maintains its position that the Agreement remains a key factor in the renewed appreciation for the current constitutional reform process.

The next chapter discusses the draft federal constitution, particularly the process taken in drafting it. It looks at the Buala Premiers Meeting and the options available to Solomon Islands to bring about political change. The chapter also describes the drafting of the draft federal constitution and highlights the roles that key stakeholders played in the process. The chapter concludes by outlining the implications of the draft federal constitution for Solomon Islands.

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CHAPTER 5: THE DRAFT FEDERAL CONSTITUTION

“[d]emands for state government are matters that touch on our national constitution and cannot be pressed for by one or two provinces. The Constitution belongs to the whole country, not just a few provinces and their leaders. If a change is required to the Constitution it has to come by way of very clear mandate from the populace either by way of a review or referendum.”

Andrew Nori commenting on the Guadalcanal Demands of 1988

5.1 Introduction

The Townsville Peace Agreement acted as a catalyst to the state government process in the sense that it created in the central government an obligation and a sense of responsibility that was not present in previous agreements or reports. In showing the Government’s commitment to the Agreement, the Premiers’ Meeting was convened a month later. In a ‘secret’ memorandum to cabinet the Minister of Provincial Government and Rural Development,134 requested that approval be granted to use the Premiers Meeting to consider the introduction of the state/Federal Government System.135 The objectives of the Buala Premiers Meeting were: i) to provide an opportunity for Premiers to express their opinions openly, and ii) to ensure that the aspirations and desires are realistically accommodated in a constructive and cooperative manner. The inclusion of the ‘federal government system’ as an agenda in the meeting is both a strategic and shrewd move. It alleviated the difference that existed between other provinces and Malaita and

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134 The Minister for Provincial Government and Rural Development at that time was Nathaniel Waena, MP for Ulawa/Ugi Constituency.
Guadalcanal as an aftermath of the TPA, and also it seized the opportunity to see where these provincial leaders stand on the issue of federalism for Solomon Islands.

The Buala Premiers’ Meeting concluded with three resolutions: 1) that a ‘home grown’ state system be adopted; 2) that government amend section 114 of the Constitution as soon as possible to give effect to resolution (1); and 3) that provinces with the expressed desires to secede from Solomon Islands pursued their cases individually with the national government. The outcome of the Buala Premiers Meeting was approved by Cabinet on 28 December 2000 and a Reform Taskforce was set up by the Prime Minister with the instructions to study the 1987 CRC Report and Recommendations carefully as a basis to develop a model for a State government system. The Taskforce held its first meeting on 9 February 2001 and was expected to complete its task no later than 31 May 2001. The Task Force completed it report on 29 May 2001 and was submitted by the Minister of Provincial Government and Rural Development to the Cabinet on 7 June 2001. The Task Force identified the federal system and further produced proposed drafting instructions for the intended DFC.

136 Most of the other provinces (besides Guadalcanal and Malaita provinces) felt ignored by the government as a result of the Townsville Peace Agreement.

137 Constitution of Solomon Islands Section 114: (1) Notwithstanding anything contained in the Solomon Islands Independence Order 1978 Solomon Islands shall be divided into Honiara City and provinces. (2) Parliament shall by law-

(a) prescribe the number of provinces, and the boundary of Honiara City and the provinces after considering the advice of the Constituency Boundaries Commission;
(b) make provision for the government of Honiara city and the provinces and consider the role of traditional chiefs in the provinces.

138 Temotu, Makira/Ulawa and Rennell/Bellona provinces had expressed a desire to secede from Solomon Islands and become independent nations.


In 2002, the incoming Allan Kemakeza Government adopted the SGTF Report as the basis for the creation of the federal government system in Solomon Islands.\footnote{Schindnowski, D. 2004, “The capital costs of implementation of statehood in Solomon Islands – Building an additional infrastructure,” November 2004.} A Constitutional Review Committee was established, and with the assistance of UNDP, undertook an assessment of the constitutional reform process.\footnote{ibid.} A socio-economic assessment was also conducted, including two consultations conducted nationwide to identify the possible implications of the decentralisation under a new federal system of government.\footnote{Constitutional Reform Unit, “Solomon Islands Constitutional Reform Project Report,” 26th March 2008.} Based on these consultations, a draft Federal Constitution was drafted and formally launched in November 2004. The Draft was supposed to be distributed for further consultation before it could be submitted as a bill in Parliament. In launching the draft, the Prime Minister at that time, Allan Kemakeza, proclaimed that the draft was a result of extended consultations carried out ‘both in the Provinces and Honiara.’\footnote{ibid.} This is a reflection of the general input the people had on the DFC.

Further consultations were carried out in 2005 with provincial leaders over a process to complete a final constitutional draft text.\footnote{ibid. p.3.} This led to the publication of a white paper setting out the government’s reasoning for conducting constitutional reform and the process needed to complete a final draft text of a new Constitution. The white paper further reiterated the government’s aim of investing responsibility over the completion of the constitutional reform in the public and rural communities in Solomon Islands.\footnote{ibid.} Impliedly, this acknowledged the need for the creation of a homegrown constitution.

5.2 Available options to bring about political change

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\footnote{ibid.}
\footnote{Constitutional Reform Unit, “Solomon Islands Constitutional Reform Project Report,” 26th March 2008.}
\footnote{ibid.}
\footnote{ibid. p.3.}
\footnote{ibid.}
In planning to bring about such major change to the government system, the SGTF was faced with a very difficult question. The question is how to bring about such change within the existing political structure of governance. Section 114 of the Constitution gave Parliament the power to make laws that would allow decentralisation, or give provincial governments more power or political control over their affairs. In defence of the provincial government system, some leaders argued that section 114 of the Constitution has not been exhausted by the current government. The Government should first utilize section 114 before looking for an alternative system.

However, evidence had shown that attempts to utilize section 114 of the Constitution in the past had failed. In 1996 Parliament passed the Provincial Government Act of 1996 to repeal the 1981 Provincial Government Act. The 1996 Act proposed changes to the existing provincial set-up with the establishment ten Area Assemblies within each province. These area assemblies were to be constituted equally by elected members and appointed chiefs and elders. Furthermore, each province would have a Provincial Council, instead of the existing Provincial Assembly. This Council was to be constituted by the Chairs of all the Area Assemblies in the province. The rationale for this change in the provincial structure was to decentralize the government’s power base so that it reaches the grassroot people. The key change in the 1996 Act was the creation of area assemblies where chiefs and elders can be members. The aim was to involve traditional leaders in government decision making.

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149 See fn.137 on section 114 of the Constitution.
150 Leaders such as Andrew Nori and the Premier of Malaita Province Richard Naamo Irosaea.
The 1996 Provincial Government Act was strongly opposed by a number of provinces. As a result, a court proceeding was filed against the Speaker of Parliament by the Guadalcanal Provincial Assembly, challenging the Act. It was argued by Guadalcanal Province that the proposed provincial government structure was unconstitutional because it enabled half of the area assembly to be occupied by chiefs and elders. In Solomon Islands societies, chiefs and elders were predominately male. This is against the human rights notion of equal representation as enshrined in the Constitution, thus the High Court ruled in favour of Guadalcanal Provincial Assembly.

The High Court decision was reversed on appeal by the Court of Appeal on the ground that Parliament was entitled to make laws for the country even if these laws were deemed unconstitutional. Ironically, Parliament, swayed by the opposition to the 1996 Act, repealed it and re-enacted the 1981 Act as the Provincial Government Act, 1997. Since then no attempt has been made to re-visit the issue of decentralization through the provincial government set-up. A possible reason for such inactivity in this area ever since could be the restrictions that the Constitution may have on any possible change that Parliament may want with the provincial government system, particularly with human rights issues.

The other option available under the current Constitution is to amend section 114 of the Constitution. The Socio-Economic Study report recognized this option by suggesting that section 114 should be amended by replacing the term ‘provincial

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151 The two main oppositions to this Act were Guadalcanal and Malaita Provinces.
152 See the case Guadalcanal Provincial Assembly v The Speaker of National Parliament and the Minister for Provincial Government, (26 February 1997) unreported, High Court, Solomon Islands, Civ Cas 309/96.
governments’ with ‘state governments’. This should be followed by the introduction of a ‘State Government Act’ to elaborate on the finer details of the state government system. An Amendment Bill was drafted in late 2001 to amend section 114, enabling ‘provinces’ to be replaced by ‘states.’ However, in March 2002 Parliament voted in favour of the development of a completely new Constitution. It was obvious that a new federal constitution was preferred because of its specificity compared to working within a rigid Constitution that was not designed for a federal system of government. Also, changing the terms by amending the Constitution may not be as easy as it may look because the important details of the adopted political system must be provided in the Constitution in order to protect it from being manipulated by lawmakers.

It is clear from the above discussion that the government weighed these options before deciding on the creation of a new constitution. Furthermore, it is possible that the government may not want to repeat a similar situation such as the one experienced in the Provincial Government Act of 1996, where the proposed changes were challenged by the provincial leaders. Therefore, the government made the right choice by opting for a new federal constitution, the choice of the majority of Solomon Islanders.

5.3 Drafting of the Draft Federal Constitution

Upon the completion of its task in 2001, the SGTF produced clearly defined drafting instructions for the intended draft federal constitution of Solomon Islands. These drafting instructions were taken on board by the Kemakeza government and the

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156 ibid, p.7.
UNDP team. The aim was to present them to the general public during the consultations. The discussions and views of the people collected during the consultations will assist in forming the final drafting instructions.

The SGTF provided twenty five\textsuperscript{157} main principles, which will later formed the basis of the draft federal Constitution.\textsuperscript{158} These principles outlined the key areas of consideration for the draft constitution. For instance, principle number five recommended the name to be adopted by the country once a federal system of government is secured.\textsuperscript{159} Similarly, the report further provided for the establishment of positions such as the head of state and state governors; state arms such as the court system, public service and police force; the number of states to be drawn; the political structure and evolution of powers; the role of traditional chiefs and land issues; the wealth sharing formula and social services such as education and health; the limitation of political parties; and finally the use of minerals.

In November 2003 the Government agreed to the writing up a draft text of the federal constitution for Solomon Islands and the proposed principles.\textsuperscript{160} Despite this confirmation, the preparatory work on drawing up the new constitution started well ahead in 2002 when the Cabinet adopted the recommendations of the task force. The initial deadline for the completion of the draft constitution was set for June


\textsuperscript{158} Solomon Islands Government, “Background Information on the Proposed State/Federal Government System for Solomon Islands,” 18\textsuperscript{th} March 2002, p.2.

\textsuperscript{159} It recommended the name “Sovereign Democratic Federal Republic of Solomon Islands.”

2002 purposely to comply with Parliamentary requirements for presentation of bills for the parliamentary session set for July and August 2002. This did not materialize as the formal agreement for the drafting of the draft was granted late in 2003. This then gave the Attorney General’s office the mandate to proceed with the draft text of the constitution at a later stage. Also the government had decided against a bill, and was then focused on the writing up of a new constitution.

A team of Constitutional lawyers was assigned to put together the text of the first draft of the federal constitution. Heading this team of lawyers was Reginald Teutao, a former Attorney General of Solomon Islands, and Tom Woods, a constitutional law expert appointed under the UNDP agreement. The first drafting instructions produced by the constitutional lawyers were compiled mainly from the SGTF (2001) Report, the Socio-Economic Study (2001), and the Provincial Consultation Reports (2002). Upon the completion of the drafting instructions, an Overview Committee (OC) was established by the Government to scrutinize the drafting instructions before presenting them to Cabinet. The OC was predominately made up of high government officials such as the Minister for Provincial Government and his permanent secretary. The basic reason for the establishment of the OC was to satisfy the UNDP condition that a high-level body must be established to guide the Government in the constitutional reform process. Therefore, the establishment of the OC was purposely to fulfil that requirement.

After reviewing the drafting instructions, the OC resolved that the Government required more time for a second provincial consultation to gauge feedback from people on the drafting instructions. This was to ensure that the people get a

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162 ibid, p.29.
163 ibid.
second look at the instructions. This was seen by John Tuhaika, to be an important decision. He pointed out that a second consultation was required because the feedback will form the basis upon which the draft will be made. A second Provincial Consultation was carried out immediately from July 2003 and ran for three weeks. At the same time, parallel consultations on the drafting instructions were also carried out with various stakeholders in and around Honiara. This included consultations with women groups, council of churches and youth representatives.

During the consultation, the drafting instructions were explained to the people and people were asked to share their views on it. The feedback from this Consultation was put together and presented to the constitutional lawyers working on the draft federal constitution. Using the drafting instructions as the basis, the constitutional lawyers drew up the DFC, which was completed in 2004 and presented to the Government.

The first draft of the federal constitution was presented to the Government and the general public in November 2004. The Government asked members of the public and communities to comment on the draft. It was expected that the final Draft would be ready by the middle of 2005. By the end of 2005 each proposed state should be working on the second stage of the constitutional reform process which involves the creation of their respective state constitutions.

### 5.4 Key Stakeholders

164 The Permanent Secretary for Provincial Government, who was directly responsible for the constitutional reform process at that time.
168 John Tuhaika, “Presentation on Leading Strategic Change in the Public Sector,” p.29.
5.4.1 Solomon Islands Government

The Solomon Islands Government was a key stakeholder in the constitutional reform process. Past governments before the 1998 – 2000 events had paid little attention to the wishes of the people for greater autonomy and decentralization. The government thought that the provincial government system will achieve decentralization as federalism would have. For example, the Kenilorea government after independence opted for a provincial government system, when the provincial government consultation reports indicated that the people wished for a federal system of government. This was not the case. Similarly, the 1988 Mamaloni Report was not even considered by the government at that time or by any consecutive governments.

Interestingly, Solomon Mamaloni was himself Prime Minister for two terms after the Mamaloni Report. During those two terms the federal government system was not mooted in Parliament. There could be a possible link between the findings of the reports and the failed attempt to devolve power to village chiefs and elders through the 1996 Provincial Government Act. This was during Mamaloni’s tenure as Prime Minister. No further attempts were made after the revocation of the 1996 Provincial Government Act.

The TPA marked a new chapter in the constitutional reform process in Solomon Islands in terms of government involvement. After the TPA, beginning with the Sogavare Government, all governments made constitutional reform a priority and wanted to see all their efforts lead to the required changes to the political structure.

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169 Solomon Mamaloni was Prime Minister from March 28, 1989 to June 18, 1993, and again from November 7, 1994 to August 27, 1997.
As such, more financial and technical support was given to the constitutional reform project to ensure it was completed in their tenure. According to a UNDP source, though the consultation was funded and supported by UNDP, the Solomon Islands Government controlled the consultation process. Therefore the pace and proposed outcome of these consultations were determined by the Solomon Islands Government. This is evident in the numerous timelines set by the past governments, often coinciding with the tenure of a particular prime minister in office. However, the realities of constitutional reform processes deter past governments from passing the final draft of the federal constitution.

5.4.2 United Nations Development Project

The Solomon Islands Government approached UNDP to assist with the proposed move towards the creation of a federal Constitution. UNDP undertook an assessment of the constitutional reform process by conducting consultations throughout the country.\(^{171}\) The scattered nature of the islands posed a difficulty to UNDP in ensuring that all Solomon Islanders were consulted. According to UNDP reports “... [t]he process of constitutional review in Solomon Islands is on an irreversible track.” Though it may lack a thorough analysis, reality does not provide a way back.\(^{172}\) A set of standards was put forward by UNDP to ensure the minimum standards of democracy and good governance were met. This includes the principles of transparency, participation, credibility, objectivity and ownership by Solomon Islanders.\(^{173}\) The Solomon Islands Government readily accepted these standards, allowing UNDP to proceed with its efforts in conducting surveys and carrying out consultation throughout the islands in 2003.

\(^{172}\) ibid, p.23.
\(^{173}\) ibid.
In 2005 UNDP weighed the options of re-engagement with the Constitutional Reform process. UNDP has serious doubts about the expensive nature of the proposed federal system,\(^{174}\) and on the basis of its view that the current system is less expensive, has backtracked on its decision to be engaged with the process. Criticizing UNDP’s change of mind on the proposed federal system, Katy Le Roy\(^{175}\) argued that the people of Solomon Islands wanted the proposed reforms and it should be they who should decide, and not donors.\(^{176}\) Donors should restrict their involvement to funding and technical assistance and let the Solomon Islanders decide for themselves.

### 5.4.3 Aid Donors

Other aid donors such as Australia,\(^{177}\) New Zealand, ACP, the British government and the European Union were also involved in the constitutional reform process in Solomon Islands.\(^{178}\) Most of these aid donors worked closely with the central government and the provincial governments on areas such as governance and rural development. However, it is understood that these aid donors were reluctant to pursue the issue of federal government for the country.\(^{179}\) Though their reasons for such reluctance were not formally documented, it was rumoured that the general view was the federal system of government will be very expensive to run in a

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\(^{174}\) Regional Rights Resource Team (RRRT), 2004, “File Documents on dialogue between UNDP head and RRRT regarding the constitutional process in Solomon Islands” RRRT Delphi Files, Suva.

\(^{175}\) A PhD student studying the constitutional reform process in Solomon Islands and Vanuatu in 2005.

\(^{176}\) Solomon Islands Constitutional Reform Unit (CRU), 2005, “File Note: Meeting 29th June 2005,” Office of the Prime Minister and Cabinet, Honiara.

\(^{177}\) AusAID has been working closely with the provincial governments in Solomon Islands to deal with issues of governance.


country like Solomon Islands. Eventually, it was argued, this will put more financial pressure on the aid donors.

Despite the general reluctance shown by aid donors towards the constitutional reform process, Solomon Islanders are adamant that the reform process is the best way forward for the country. Interviews carried out by Katy Le Roy in her PhD research had shown that Solomon Islanders are aware of the reluctance of aid donors to support the constitutional reform process, but the common response was to let Solomon Islanders decide for themselves what is best for their country.\(^{180}\) People are of the impression that they alone know what is best for the country, though they may appreciate assistance from aid donors, but such assistance should not be used to derail their ambitions to see a change of government structure in the country. This view was succinctly expressed by the former Governor General (Nathaniel Waena) when he explained that a “... home grown constitution ... must be something that grows out of our desperation, ... something to be cherished ... [we need to] inform our critics and observers that Solomon Islanders are now well-informed ...”\(^{181}\) and can decide for themselves. This is a general expression of the feelings of the majority of Solomon Islanders that the time is now right to introduce the federal system of government.

5.5 Implications of the Draft Federal Constitution to Solomon Islands

5.5.1 Human rights

The draft federal constitution emphasized the importance of a ‘homegrown’ constitution to ensure Solomon Islanders claim ownership over it. Thus, one can see
in various versions of the draft the perceived view of a need to have a home grown constitution. To ordinary Solomon Islanders, a home grown constitution should have all the hall-marks of Solomon Island-ness. In other words, it should provide a Solomon Islands perspective to issues raised in the constitution. However, a potentially troubling provision for the homegrown draft constitution of Solomon Islands is the extended chapter on rights. According to Corrin-Care\textsuperscript{182} this chapter:

“...was prepared and lobbied for by the Regional Rights Resource Team (RRRT), a regional body funded as a UNDP project.”

The bill of rights chapter of the draft constitution increases the number of sections to 38, compared to the existing 17 sections of the current Solomon Islands Constitution. The important question is – how much of these rights are ‘homegrown’? All these provisions are designed along the Universal Declarations of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and the International Convention on Economic, Social and Cultural Rights (ICESCR).\textsuperscript{183} In Corrin-Care’s view, this is a reflection of the reality that this chapter was not negotiated from the starting point of a local agenda or the particular circumstances of Solomon Islands.

Similarly, these concepts and the manner in which they were introduced appeared to be in opposition to the calls made by Solomon Mamaloni and Peter Kenilorea (plus others) in the Constitution Review Committee (CRC) (1987) for the ‘abolition of foreign value systems and concepts’ in return for a home grown and more tradition


\textsuperscript{183} ibid.
oriented system. Furthermore, one cannot dispute with the words of Tom Woods, a legal drafting expert, who stated that Solomon Islanders are capable of articulating a system suitable to their circumstance without having the current approach on the bill of rights of the draft constitution imposed on them from outside. One thing for sure is that an imposed concept of ownership may also not be in favour of the majority of Solomon Islanders.

The bill of rights chapter also introduces a new category of rights that are not found in other constitutions in the region. For example, the introduction of the ‘indigenous rights’ can be viewed as an attempt to balance popular support for indigenous rights with the common human rights principles. In a presentation, John Tuhaika admitted that the inclusion of indigenous rights came about as a result of strong sentiments raised during consultations. This in effect brought about the existence of two sets of rights, which may require a special formula to provide for their co-existence. The draft federal constitution further recognizes the traditional conservative values of Solomon Islanders and yet at the same time provide for progressive rights such as the recognition of differences in sexual orientation in Solomon Islands. The bill of rights chapter of the draft federal constitution at the most can be considered as confusing and may lead to future obstacles in the operation of its provisions.

Interestingly, the drafting of the draft federal constitution fell coincidentally with the date in which Solomon Islands is due to present its report before the ICESCR

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Committee.\textsuperscript{187} As such, Solomon Islands was under undue pressure to show to the world that it had taken steps to rectify the shortfalls of its current Constitution by giving more recognition to these ICESCR rights in the proposed draft federal constitution. As such, the inclusion of these rights in the draft federal constitution does not reflect the wishes of Solomon Islanders but rather an attempt by human rights advocates and the government to show to the world Solomon Islands’ commitment to ICESCR.

5.5.2 Expensive to operate?

Concerns have been expressed that the new proposed federal government system may be too expensive to run or operate. As indicated in the Socio-economic Study Report, the proposed state government system will not cost less than the current system of centralized government but it could cost more, though it cannot be determined at this stage how much that extra cost could be.\textsuperscript{188} The assessment made by those promoting this line of thinking is that with the federal/state government system, new financing sources are needed to finance the expanded system of government, especially the states. It was assumed that all the expenses will be footed by the federal government, similar to the current quota system adopted by the central government. The expenses were seen from a mirroring perspective, as the same functions of the federal government is mirrored down to the state governments, and is likely to be paid by the federal government as well. However, it should be noted at this point that under the federal/state government system, individual states are responsible for their own finances, either by generating them or using them for services. The draft federal constitution provides for states to

\textsuperscript{187} Solomon Islands was due to present its report in 2003.

generate their own income and at the same time gives the federal government power to impose tax. As a result, both the states and the federal government generate their own incomes.

Even the UNDP was aware of the purported expensive nature of these proposed constitutional and political reforms. In a private memo to a colleague, the UNDP resident representative based in Suva admittedly said that donors (UNDP) did not want the reform because ‘the federal system will be prohibitively expensive.’\(^{189}\) Other regional stakeholders such as the Australian Government and the Forum Secretariat, and individual researchers, also reached the same unfounded conclusion that a federal/state government system would be expensive to operate.

Nevertheless, advocates of the federal/state government system in Solomon Islands are adamant to see through the constitutional reform process. In response to the arguments that the system is expensive, the Deputy Premier of Western Province, Oliver Zapo, published a two-page private view in the Solomon Star dismissing those assumptions.\(^{190}\) He argued that the Forum Secretariat decision was made based on the UNDP opinion reached in 2003 without any proper assessment of the operation of the federal/state government system in the country. Similarly, those individual findings by the two researchers were inconclusive as they were focused on incorrect assumptions of the desire for state government by provinces. For example, they wrongly assumed that the push for state government was orchestrated by Western and Guadalcanal provinces.\(^{191}\)

\(^{189}\) Solomon Islands Constitutional Reform Unit (CRU), 2005, “File Note: Meeting 29\(^{th}\) June 2005,” Office of the Prime Minister and Cabinet, Honiara.


\(^{191}\) ibid.
Furthermore, it is argued here that it is the Solomon Islanders that want a federal/state government system and not the international stakeholders or aid donors. Such involvement could mean that international stakeholders are only interested in ensuring their goals and policies are implemented. The introduction of a federal system of government will inadvertently restrain the extent of penetration that international stakeholders have in the country. For example, in a federal system the federal government does not hold much leverage as far as implementation in the respective states of international policies or treaties is concerned. Thus, international stakeholders have to deal with the federal government plus respective states individually in order to implement international policies and treaties.

5.6 Moving from the 2004 Draft the 2009 first Draft of the Federal Constitution

It took approximately four years before the second draft could be published. This showed the thoroughness and commitment of all those involved in the process to produce the best. During these four years a lot of consultations and surveys were carried out throughout the country to get more contributions from the public.192

After the consultations and surveys, a general plenary meeting was held in July 2009 for all the Constitutional Congress (CC) Members and the Eminent Persons Advisory Council (EPAC).193 During the plenary meeting the participants debated the 2004 DFC and made changes based on the feedback they received from the communities during their consultations and surveys. The outcome of this general plenary meeting formed the basis of the first 2009 draft of the federal constitution.

192. These consultations include the MPs Consultation (2005) and the Constitutional Congress Surveys (2008–2009).
193. EPAC is made up of senior Solomon Islands citizens, including former public servants, premiers and members of parliament.
5.7 2004 Draft v 2009 1st Draft – what major changes have been made or have not been made?

The first 2009 draft of the Federal Constitution released in July 2009, made a number of very important changes to the 2004 draft Federal Constitution. At the same time, a number of sections that were strongly opposed by the provinces were not amended or removed from the 2004 draft. This part of the research paper will discuss some of the key changes made to the 2004 draft by the first 2009 draft and what provisions are still maintained despite strong opposition.

5.7.1 Changes or deletions

The first important change to the 2004 draft that is worth discussing is the preamble of the Draft Federal Constitution. A comparison of these two drafts shows that there is a major twist in the language used in the preamble. The preamble in the 2004 draft was written in a clear layman’s language while the preamble in the 2009 draft takes a more legalistic approach.

The major changes in language of the preamble suggest that the 2004 draft contained a poorly and hurriedly drafted preamble in the 2004 draft lacking legal drafting expertise, and demonstrated the hallmark of the involvement of non-legal personnel in its drafting. This brought forward the question of whether the 2004 draft federal constitution was made in a hurry. If so, what reasons would there be for such a hurriedly designed federal constitution? I am of the view that over time, the constitutional reform process had become a political ploy by successive governments to regain power. Successive governments and political parties had used the reform process to strengthen their political stature and satisfy the wishes of their voters. Presumptive analysis indicated that the 2004 draft was hurriedly
presented mainly to satisfy: 1) the provincial demand for state government, 2) the government’s desire to retain support of the provincial leaders, and 3) the desire to show to the nation that the government had taken steps to address an issue that past successive governments had neglected.

A second major change made to the 2004 draft was the renaming of Solomon Islands as a Democratic Federal Republic, instead of just a Republic, as was the case in section 1 of the 2004 draft. These changes came about as a result of the tireless efforts of the ‘federal foundation’ themes committee set up to review the federal foundations of the draft. The federal foundation themes committee had dissected and explained the meanings of the terms and what they would encompass once put together. This was supported by all members of the CC and EPAC, thus expressing the desires and wishes of the people of Solomon Islands.

The third important change made to the 2004 draft by the 2009 first draft is the deletion of the provision that empowers the federal government to interfere in state affairs. Section 262 of the 2004 draft federal constitution states that where a state cannot fulfil an executive obligation under the federal constitution or state constitution, the federal government may intervene to ensure the state meet its obligations. This section further empowers the federal government to enact laws to regulate the process of interference into state affairs.

This provision was deleted from the 2009 first draft of the federal constitution. The reason for such deletion was the popular opposition from the provinces. In its official report on the state government, the Western Province Government argued that the provision gave de facto power to the federal government from which it can control

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194 See the 2004 draft of the federal constitution.
and manipulate the states to meet its own needs. It was argued that this is just a continuation of the centralized system of government, which the federal system was supposed to do away with. Malaita and Guadalcanal provinces further argued that the federal government should leave the states alone to work on their issues as part of the process of developing the new federal system of government.

\[b) No Changes or deletions\]

Despite strong opposition from the provinces, there are some provisions that remained unchanged in the 2009 first draft. The first provision of grave concern to the provinces is the issue of dual citizenship. Section 66 of the 2004 draft federal constitution and the 2009 first draft federal constitution maintain that any citizen of Solomon Islands may acquire or retain his/her citizenship of another country. This provision allows a person to be a citizen of Solomon Islands and at the same time retain or acquire citizenship of another country.

This provision was strongly opposed by the provinces during the MP’s consultation and the Constitutional Congress consultations throughout the country. In his report, the MP for Central Kwara’ae, Fred Fono, reported that:

... [t]he people of Central Kwara’ae do not want or accept the provisions allowing dual citizenship for foreigners and Solomon Islanders. There is fear that once dual citizenship is allowed, foreigners might remit their money earned in our country to their own secondary country of citizenship.

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198 Central Kwara’ae MPs report on the Federal Constitution, 2005. See Appendix VIII.
There is also fear that foreigners could use this provision to engage in unscrupulous activities such as illegal business operations or to escape from the law in other countries. One of the arguments raised by a number of provinces is that the allowance of dual citizenship will lead to more corrupt practices from the public service.\textsuperscript{199} Even with strict guidelines accompanying the current system, there is a high rate of illegal acquisition of passports in the immigration section; this rate will intensify if the rules are changed to accommodate the dual citizenship provision.

The second provision of concern to the provinces is the provision for the election of the President of the country. Section 76 of the 2004 draft federal constitution, which is maintained in the 2009 first draft, states that the President shall be elected by members of the Federal Parliament. In other words, the people will not directly vote for the president; rather, their elected members in the federal parliament will vote on their behalf.

This provision was strongly opposed during the MP’s consultations and the Constitutional Congress consultations. The opposition of Solomon Islanders to this provision draws links to the people’s desire to be directly involved in the election of their national leader. As noted, Solomon Islanders feel that voting for the President should be done by every Solomon Islander exercising their democratic right to choose the President, not to have the responsibility put in the hands of untrustworthy politicians.\textsuperscript{200}

\textsuperscript{199} This argument was raised in the Reports of the following provinces, Western Province, Guadalcanal Province, Malaita Province, Temotu Province, Central Islands Province and Choiseul Province.

\textsuperscript{200} See the MPs’ Report for Central Kwara’ae, Auki/Langalanga, Lau Baelelea, West Areare etc, and the Constitutional Congress Reports for Malaita, Guadalcanal, Western, Temotu, Choiseul and Central Islands provinces.
Thirdly, a large number of Solomon Islanders feel that there is no need for a third category of powers. In both drafts of the federal constitution it is maintained that there should also be concurrent powers shared between the federal and state governments. The majority of the provinces\textsuperscript{201} feel that there should be only two categories\textsuperscript{202} of powers, to the federal and state government respectively, with clear demarcation as to which powers fall under which category. It was raised that the concurrent powers will provide a loophole for the federal government to interfere in the affairs of the states.

5.8 Conclusion

This chapter highlights the different processes involved in the preparation and making of the draft federal constitution. The Buala Permiers Meeting endorsed or provided the green light for the government to proceed with the constitutional reform process in finding a new system of government that reflects the wishes of the people. This chapter pointed out that there are provisions in the current Constitution that promote the decentralization and the devolution of powers to lower government bodies closer to the grassroot people. These powers are underutilized, with the government backing out of an attempt to change the provincial government system due to opposition from a number of provincial governments.

The CRC Report of 1987 formed the basis of the SGTF Report on the drafting instructions. These drafting instructions were used during the UNDP consultations. The important point to note is that the UNDP consultations were never about the type of government system the people desire. That decision was made during the

\textsuperscript{201} Malaita, Western, Choiseul, Makira/Ulawa, Isabel provinces. See List III of the 2009 first draft of the Federal Constitution, Appendix IX.

\textsuperscript{202} Namely the Federal Powers and State Powers.
drawing up of the drafting instructions by the SGTF team. The purpose of the UNDP consultations was mainly to collect information from people about what they want or think should be included in the draft federal constitution under the outlined drafting instructions. The main argument raised in defense of the SGTF decision was that the people of Solomon Islands had already decided on numerous occasions in the past that they wanted the federal system of government.\(^{203}\)

This chapter also highlights the implications of the draft federal constitution for Solomon Islands. These implications fall within the areas of human rights and the expenses of running the system. This chapter views human rights as the most contentious implication of the draft as it draws on a lot of rights and freedoms practised in western countries. This seems contrary to the declaration that the constitution should be autochthonous and made within the country. Similarly, the alleged expense in running the system is an issue as well. However, for now we take comfort in the fact that the system has not yet been tried therefore all these arguments about expense are still a theory.

This chapter finally provides some insight into the transition of the 2004 draft to the first 2009 draft of the federal Constitution. The first 2009 draft shows a number of amendments and deletions made to various provisions from the 2004 draft. This reflects the willingness of the constitutional congress to work towards the production of a final draft that would truly reflect the wishes of the people of Solomon Islands.

The next chapter will focus on the consultation process, including past consultations and the consultations that were carried out after the 2000-2003 crises. This chapter focuses on the involvement of Solomon Islanders in the process.
CHAPTER 6: CONSULTATION – THE EXTENT OF SOLOMON ISLANDER PARTICIPATION IN THE MAKING OF THE DRAFT FEDERAL CONSTITUTION

“Solomon Islanders want to be active participants in the process of governance reform in their country.”

6.1 Introduction

Solomon Islanders had long been calling for the decentralization of government and services. People wanted better services such as education, health, and proper infrastructure that are available in Honiara on their islands. Based on the reports of various consultations that were carried out throughout the country since independence, the majority of the results showed that, the people were supportive of any system that would bring about change. Across the islands people are praying that the government give freedom and authority to make decisions to the provinces to govern themselves. The DFC is not just a result of recent consultations; it is an affirmation of the wishes of the people since independence.

This chapter will look at the level of participation of Solomon Islanders in the creation of the draft federal constitution. It first identifies and discusses the level of consultation and methodology used in the various consultations and surveys that were carried out in Solomon Islands regarding constitutional reforms. Secondly the chapter discusses the involvement of the constitutional reform unit in the process. The aim is to identify the type of leadership and guidance this particular body plays on the process. Thirdly, this chapter will look at the plenary meetings. This is an important aspect of the process because this is where the representatives of the people meet and make important decisions that would affect the outcome of the draft federal constitution.

The aim of this chapter is to show to the readers the different processes that the reform process went through before it could finalise its final draft. At the moment the process has not yet reached the final stages, and all discussions are centred on the plenary meetings and the consultations.

6.2 Consultation and methodology

The methodology of consultation used since independence in the various consultation processes had similarities. For instance, all consultations include general meetings and obtaining feedback, individual and group submissions and questionnaires.

6.2.1 Constitutional Review Committee (1987)

In the 1987 consultation the general public meetings provided a major source of information for the teams. Service-messages were sent to the communities via the national radio informing the public of the dates and venues of the meetings. During these meetings, those who carried out the consultation briefed the people about the purpose of the consultation and why they needed the views of the people. According to the report, people were forthcoming with the views and opinions.

Private individuals and civil groups also presented their submissions before the review committee. In Honiara, presentations were made in a number of locations, including the national parliament and the government-owned Kalala house. A number of prominent Solomon Islanders and academics used this occasion to share

205 Solomon Islands Broadcasting Corporation (SIBC).
their views on the system of government of the country. Their views and opinions were documented in the part of the report called evidence.

Besides the general consultation meetings and the submissions, the review committee also used a working questionnaire. The working questionnaire was designed to replicate the Constitution, and people were asked questions pertaining to the respective sections of the Constitution. For example, under chapter one the questionnaire asked questions such as whether the country should retain the queen as the head of state of the country.

The findings of the 1987 reports were mainly compiled from these public meetings, individual and groups submissions (both written and oral) and responses to questionnaires.

6.2.2 UNDP Surveys and Reports (2003)

The public consultation carried out by UNDP in 2003 followed a similar pattern as its predecessor, the Constitution Review Committee consultation in 1987. Nine consultation teams were formed for each province. Each team comprised 6 members, including a team leader. In training sessions, teams were reminded that:

... team members were not going out into the provinces to consult with people on their preferred model of government, or to promote the idea of a

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207 ibid.
208 See the appendix IV.
federal system, but to listen to and record the issues of concern and suggestions raised by the members of the public.\textsuperscript{209}

The training outcome provided the four themes that later formed a key feature of the consultation.

The teams were then sent to the provinces to conduct the surveys and consultations. Locations were selected based on their population density and central location close to other villages. The structure of the meetings was often flexible, with most opting to start with a prayer, followed by a general introduction, a brief explanation of the existing system and the history of the reform exercise, and an introduction to the four discussion themes.\textsuperscript{210} These meetings were often open, giving participants opportunities to ask questions. The meetings conducted by these teams ranged from 11 to 18 meetings throughout the provinces. Upon the completion of these consultations, each team leader prepared a detailed report on the consultations, detailing the locations and attendances, methodology and the findings.\textsuperscript{211}

The results of the consultations formed the basis of the first drafting instructions. These drafting instructions were again taken back to the communities for the people to comment on them. This marked the second round of consultations that was carried out in 2003. Again the same procedure was followed by the teams. The findings of the second round of consultations resulted in the final drafting of the first draft federal constitution.

\textsuperscript{210} ibid, p.19.
\textsuperscript{211} ibid.
6.2.3 MPs Constituency Survey (2005)

In December 2004, after the launching of the first draft of the federal constitution, the national Government approved the disbursement of twenty thousand dollars ($20,000 (SBD)) to each Member of Parliament to conduct further surveys on the draft federal constitution. The purpose of the MP’s survey of their respective constituencies was to explain the draft federal constitution to their electorates and report back to the government the feedback from this survey to further improve the first draft of the federal constitution.

Unpublished feedback from these MPs’ surveys identified a trend that is now common with all the previous consultations; almost all the electorates were in support of the new proposed draft federal constitution. Only a few constituencies on Malaita Province showed some form of reservation. For example, in Baegu/Asifola Constituency and East Areare Constituency the people wanted to see the government concentrate its manpower on economic recovery and development rather than on the constitutional reform process. Others agreed with the proposed federal system of government, but would rather see a gradual move towards it than the current approach. Their reason was to ensure all provinces are fully prepared, in terms of infrastructure and manpower, before they can be declared states.

Nevertheless, the message gathered during this consultation was that people want to see the government take further steps towards the removal of the system of government adopted after independence.

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6.2.4 Constitutional Congress (CC) Members’ Consultations (2007 – 2008)

A key component of the Government White Paper on the federal government system is the requirement for the establishment of a Constitutional Congress (CC). The congress was duly established by the Sikua Government in December 2007. The objectives of the Congress, as outlined by the 2005 white paper, are to:

(a) Complete a final content of a new constitution,
(b) Prepare a detailed report setting out the reasoning for the content of the new constitution,
(c) Define Solomon Islands political community, and
(d) Recommend an appropriate ratification procedure to bring a new constitution into effect.

According to these objectives, the Congress is purported to be in the final stage of the constitutional reform process. Alongside the completion of the draft federal constitution, the Congress was also given the mandate to engage with the Solomon Islands communities to recommend a procedure to bring the new constitution into effect.

The CC is composed of thirty-two members, twenty of whom were nominated by the provinces and Honiara City. The remainder was nominated by the national government with the inclusion of youth representatives. Furthermore, all nominations were gender balanced and represented a cross section of the

215 ibid.
217 See Appendix V for the full listing of the membership of the Constitutional Congress and the Eminent Persons Advisory Council.
communities. The CC is assisted by an advisory body of elderly Solomon Islanders (EPAC) and experts.\textsuperscript{218} The seniority of the membership of the EPAC is reflected in their status in society. For example, included in the Eminent persons advisory board were three former governor generals, a retired Anglican bishop, a number of former premiers, former members of parliament, a former speaker of parliament, and a traditional chief. The CC and EPAC members were vested with the authority to debate and decide on the final content of the draft federal constitution.\textsuperscript{219}

In 2007 the CC members began their consultations with their respective provinces in anticipation of the plenary meetings to debate the details of the draft federal constitution. The assumption was that these Congress members represent the views of the majority of people of their respective provinces. The CC members toured their respective provinces to seek the views of their people regarding the draft federal constitution. These consultative meetings were long and intensive compared to the surveys carried out for the 1987 constitutional reform and the UNDP surveys. The consultations mainly targeted the main central locations on the islands. For example, the Malaita CC team, led by Hudson Kwalea, held a week long conference in Auki with participants coming from various parts of the province.\textsuperscript{220} The conference not only covered issues relating to the draft constitution but also proposed laws that were considered important to the people of the province.

\textbf{6.3 Constitutional Reform Unit and its operations}

With the endorsement of the Government White Paper in December 2005, the Grand Coalition for Change Government of Prime Minister Sogavare adopted the

\textsuperscript{218} ibid.
constitutional reform as its main strategic theme, resulting in the implementation of the White Paper. In June 2007 the Sogavare Government set up the Constitutional Congress and the Eminent Persons Advisory Council, setting the wheels of the project running. The change of government in late 2007 did not hamper the progress in constitutional reforms. The incumbent Sikua Government endorsed and adopted the Constitutional reform program as a priority.

With a tight deadline, the Sogavare Government shifted all operations of the constitutional reform under the direct control of the Office of the Prime Minister and Cabinet (OPMC). The government established the Constitutional Reform Unit (CRU) as a special division within the OPMC. The CRU was mandated to manage and coordinate the constitutional reform project. Its key tasks involved providing technical and material support to the CC and EPAC.221 As discussed in an earlier section, the CC and the EPAC formed an important part of the constitutional reform process as it is the body that will carry forward the draft federal constitution.

6.4 Plenary Meetings

The first plenary meeting of the CC and the EPAC was convened in June and July 2009 at the SIBC222 conference room and the Red Mansion Hotel. The purpose of the first plenary meeting was to go through the 2004 draft federal constitution. This was the first time a committee such as the CC went through the draft with the purpose of making the necessary changes based on the feedback received as a result of the MPs survey, CC consultations, private submissions and the deliberations of members of the CC and EPAC.

222 Solomon Islands Broadcasting Corporation (SIBC) is the national broadcasting arm of the government.
The various themes committees also presented the findings at the plenary meeting. These themes committees were organized by the constitutional congress to look at specific chapters of the draft federal constitution. Seven themes committees were formed under the following themes: 1) Federal Foundation; 2) Federal political system and powers; 3) Public Finance and Revenue sharing; 4) Fundamental Human Rights and Freedoms and Other Rights; 5) Constitutional Institutions, Representation and Public Service; 6) Law and Justice; and 7) Transition. Each theme should meet, debate, and present its report during the plenary meeting.\(^\text{223}\)

However, out of the seven theme committees, only three managed to make their submissions to the plenary session.\(^\text{224}\)

Photo 7.1 - Members of the joint CC/EPAC Plenary Meeting held in 2009.

\(^\text{223}\) See Appendix XII for the respective theme committees and membership.
\(^\text{224}\) Namely the Federal Foundation, Federal Political Systems and Powers and The Public Finance and Revenue Sharing theme Committees.
It was adopted by the plenary council that the remaining themes were to be discussed generally during the plenary sessions. The main reasons cited by the other four theme committees for not providing any reports were mainly time constraint and lack of finance.\(^{225}\) The failure to provide these reports placed an extra burden on the plenary meeting. It has a very limited time and they must discuss all these other four themes at this session of plenary meeting.

Photo 7.2 - Two EPAC members putting across a point during the combined plenary session.

The plenary meeting was conducted in a general open conference manner under the leadership of the chairman and conducted by the senior government draftsman Reginald Teutao. The plenary meeting was confined only to the CC and EPAC members. I was fortunate to be granted permission to attend the plenary meetings as an observer. The description that follows is based on my observation. The 2004

\(^{225}\) Marilyn Maeta, CRU media officer, 2009.
draft federal constitution was divided and discussed based on the respective themes, chapters and sections. The senior legal draftsman indentified the sections of the draft federal constitution and explained them to the participants. After the explanation of each section, the legal draftsman then handed discussion over to the chairman to conduct an open discussion amongst the members. This was the interesting stage of the meetings as members were at liberty to present their views of the respective sections of the draft federal constitution. If a particular provision of the draft federal constitution was opposed by a member and seconded by others; that would result in a possible amendment or removal of the previous provision.

This process was very clear and less complicated as members openly shared their views. In the end a decision was made either by a show of hands or by a unanimous agreement that such provisions are retained or removed. The women representatives and the youth representatives all had equal say with other CC and EPAC members at this stage.

6.5 Conclusion

The above discussion highlighted the level of consultation in the various surveys carried out since the issue of constitutional reform began. This chapter agreed that there is virtually no difference in the methodology of consultation carried out in past consultations with the recent consultations. And all these consultations came out with the same responses in their reports. The only significant difference in the consultations and surveys is the UNDP consultations, which were conducted by UNDP without any interference from the government. This is different from the other consultations because they were commissioned and mandated by the government. Nevertheless, the reports all pointed out the reality – that people demand a change in the system of government.
This chapter also discussed the importance of the consultations. It agreed that consultation with the people is a very important aspect of this process as it illustrates the impact Solomon Islanders have on the constitutional reform process. Similarly, it also acts as a mandate to support the proposed move towards the federal system of government for the country.

It must be noted here that the situation in Solomon Islands is unique, in the sense that the process of consultation was not a recent initiation. It was a result of previous processes that were carried out as early as Independence and the current results of the consultations continue to express the desire of Solomon Islanders for a federal system of government. In other words, what this chapter is saying is that the current consultation findings are basically reaffirmations of the previous consultations and surveys.

The next chapter will provide an in depth analysis of the constitutional reform process in Solomon Islands, especially the involvement of Solomon Islanders in the process.
CHAPTER 7: ANALYSIS OF THE CONSTITUTIONAL REFORM PROCESS

“Solomon Islanders have been debating federal and decentralization issues longer than the state itself. A number of very high quality reports have been produced at regular intervals over a 35 year period.”

Tom Woods, Constitutional Reform advisor 2008

7.1 Introduction

This chapter provides an analysis of the constitutional reform process in Solomon Islands. The key questions this chapter set out to answer are whether: the general public was fully consulted; the result reflects the views of Solomon Islanders; and the Constitutional Congress is representing the views of Solomon Islanders. These are important questions that play a major role in identifying the role Solomon Islanders play in the Constitutional reform process.

This chapter will look at the issues that will identify the level of participation of the people. Firstly it analyzes issues such as the time frame, level of literacy of Solomon Islanders, and the method of participation. Secondly, this chapter analyzes the role of interest groups and their interests in the constitutional reform process. Thirdly, this chapter analyzes role and function of the constitutional congress and the eminent persons committee to determine whether their membership is reflective of the views of the majority of Solomon Islanders. Fourthly, the chapter determines whether the consultation is inclusive or not and what is the extent of these consultations in the country. Fifthly, the chapter provides the views of the provincial governments and their positions on the federal system of government and the draft federal constitution. Finally the paper analyses whether the draft is autochthonous.

7.2 Time frame

Given the importance of the constitutional reforms the two-month period UNDP gave to carry out the public consultations may seem inadequate. Questions were raised about the time frame given for consultations. For example, people questioned the adequacy of the time frame; whether it was adequate to consult all citizens of Solomon Islands; or whether the time frame set a rigid parameter which may provide opportunities for inattention by those who carried out the consultations.

According to Le Roy, the people UNDP engaged to undertake the public consultation part of the process found that “the very short time frame was a challenge and a frustration.”227 It was a challenge in the sense that they were working along a very tight schedule. Furthermore, the Government was committed to the terms of the TPA and wished to see the federal government system established. All these factors added pressure for the setting of a tight schedule for the consultation. The consequential effects of such pressure include issues such as: 1) lack of thorough consultation with the people; and 2) the failure to reach parts of the islands that were not accessible. This further meant that there is a certain percentage of Solomon Islands not reached and consulted on these respective constitutional reforms. And the questions that should be asked are: does the percentage of Solomon Islanders not consulted warrant a voice in these reforms? If so, what measures could be taken to include them in later consultation processes in the future?

Despite such limitations, the reports had shown that a good majority of Solomon Islanders were consulted. The results of the consultation showed immense commitment and dedication by the teams to meet the deadlines. The consultations

227 ibid, p.15.
were carried out within a period of one month, giving enough time for team leaders to put together their findings in a report and submit them to UNDP. Team Leader for Western Province during the UNDP survey, Lenora Hamilton, agreed that the limited period of time did not affect the findings and reports of the teams. This was also affirmed by the permanent Secretary for the Ministry of Provincial Government, John Tuhaika, when he was called upon to give an account of the UNDP surveys. He stated that the training and professionalism of the teams ensured that the reports were of a very high standard.

7.3 Low level of literacy

Another issue this research will analyze to determine the level of contributions Solomon Islanders made in the consultation process is the literacy level of the country. The Solomon Islands adult illiteracy rate of 25 per cent is among the highest in the world. The low literacy level is likely to mean that a majority of Solomon Islanders were not able to read, write or understand the English language. This further meant that they may not be familiar with the issues discussed, issues such as constitutional reforms or the political concepts used. This posed the question of how information relating to the reforms was disseminated to the people, and whether it was in a manner comprehensible to them.

Likewise, the level of literacy also determined the capacity of people to participate fully or engage in discussions on issues raised during these consultations. This was evident in Katy Le Roy’s research when she noted in her unpublished article that a

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228 Interview made with Lenora Hamilton, 26 July, 2009. See Appendix VI for details of of the questions asked.
local chief did raise fears that people may not grasp the concepts or understand anything talked about in the meetings because most do not read or write.\textsuperscript{231} This is a valid point. Most the people in the rural communities do not even know what a constitution is, let alone read its content or understand its importance. This is an important indicator of the people’s level of comprehension of the issues at hand.

According to Le Roy the illiteracy issue is noted by the government and stakeholders and a number of counter measures were taken. Firstly, public awareness programs were made through the national radio station (SIBC).\textsuperscript{232} These radio programs were run in Solomon Islands \textit{pijin}\textsuperscript{233} with the aim of educating the people about the constitutional reform and principles associated with it. Also radio talk-back shows were organized to allow listeners to raise questions or seek clarification on matters that were not clear to them. Through this arrangement, the government aimed to educate the people on those constitutional issues before the consultation teams travelled out to the communities.

Secondly, during the UNDP consultations, the focus of the public consultation meetings was on broad themes and issues rather than discussing various constitutional options or models of governance directly.\textsuperscript{234} The purpose was to shift the attention of the people to the themes and issues rather than to go into lengthy discussions on the constitutional issues, which could further complicate the consultation process. Remember, the system of government had already been decided on, the consultations were mainly to discuss the themes and identify areas people want to include or exclude from the future draft constitution.

\begin{itemize}
\item \textsuperscript{231}ibid, p.22.
\item \textsuperscript{232} Solomon Islands Broadcasting Corporation.
\item \textsuperscript{233} Pijin is spoken and understood by almost all Solomon Islanders since it became the recognized mode of communication throughout the country.
\item \textsuperscript{234} Tuhaika, J. 2005, “Presentation made at the Commonwealth Advanced Seminar on Leading Strategic Changes in the Public Sector,” Wellington, New Zealand.
\end{itemize}
These approaches simplified the issues for the people and gauged their attention and views. Also those involved in the consultations were fully trained with trial exercises on the questions before they were dispatched. This meant that they were well equipped and were ready for the task. For instance, questions were translated into pisin and further into the respective languages of their areas they were visiting.235

It can also be argued that the people of Solomon Islands had since independence known what type of political structure is suitable for them. This is evident in the numerous consultation and survey reports published ever since the country attained independence. The centralized government system has failed the rural people miserably by not providing basic services and development. The majority of Solomon Islanders, according to the results of the consultations, wanted these services and development opportunities, and to be consulted on government development policies. Irrespective of the low literacy level of Solomon Islanders, people do know what form of government structure they want, and confirmed in the consultation reports, that it is the federal system of government.

Furthermore, it should be noted that the same illiterate Solomon Islanders do not even understand the current system of government or how it operates. However, through the development of a locally developed system of government, the rural people can have the chance to participate in the constitution making process and develop a sense of ownership towards it. From the surveys it can be concluded that Solomon Islanders do not understand the system they want, though they are not familiar with the terminology for labeling it.

235 This was revealed in a personal interview with Lenora Hamilton, a legal officer with the Solomon Islands Government and RAMSI until 2006. She was appointed the team leader for the Western Province during the UNDP consultations in 2003.
7.4 Method of participation

The method of participation is the third important area this paper will analyze to determine the level of participation of Solomon Islanders in the constitutional reform process. It is important to analyze the methodology used during the surveys and consultations to determine the level at which people were consulted. It is important to note here that in most of the consultations and surveys the methods used were very similar. As noted earlier, in the early surveys and consultations, the method used was by way of public meetings, discussions, individual and group submissions and through questionnaires. In this analysis I will concentrate discussion on the consultations conducted by UNDP in 2002 and 2003. This is mainly due to the magnitude of those consultations and the availability of reports.

According to the SIG/UNDP Constitutional Reform Project report on the training of teams, one of the key objectives was to discuss and determine the appropriate methodology for the public consultations.\textsuperscript{236} The aim was to ensure proper information is disseminated and a proper response is received. It was decided at this training that the methodology used should be similar to the previous constitutional review survey in 1987, but with the aim to cover more communities.

The goals of the UNDP consultations were very precise. Teams were not going out to the provinces to consult with the people on their preferred model of government, or to promote the idea of a federal system, but to listen to and record their issues of concern and suggestions.\textsuperscript{237} In other words, the choice of government system was not an option for the people to decide on as it had already been decided that the


\textsuperscript{237} ibid.
federal system of government will be adopted. Many commentators had criticized this decision arguing that it was never formally put to the people of Solomon Islands to decide for themselves the system of government they want.\textsuperscript{238} The UNDP survey centred only on the views of Solomon Islanders regarding issues they wanted to include in the content of the constitution.

According to researchers such as Le Roy, this represented a major flaw in the survey as it caught the people off guard – with the chance to contribute to the content of the constitution and not to decide on the preferred system to be adopted.\textsuperscript{239} However, such arguments are short-sighted and centred only on the UNDP surveys. It must be noted that the constitutional reform process in Solomon Islands is not a one-off occasion spurred by the events of 1998–2003; rather, it should be seen as continuous, beginning when Solomon Islands attained independence and ending only when a new system of government endorsed by the people is established.

The method of participation was considered appropriate and fitting to the rural communities. People appreciated the fact that they were briefed on what was going on and were consulted on such issues.\textsuperscript{240} Local people further agreed that the task was made easier when teams clarified concepts and terms in \textit{pijin} or illustrated them in their local dialects. This made the UNDP consultation different from previous surveys and consultations where a single team travelled to various parts of the region – increasing the difficulty of making illustrations in the local dialects.


\textsuperscript{240} Oral interview done with John Kela, Chief of Dukwasi village, Malaita Province, July 2009.
The consultation meetings were also open, which gave participants the freedom to share views and opinions. In some cases, men were dominant, but this did not deter women from participating as well. In other occasions, separate meetings were held for women, youths and church leaders. Furthermore, the teams made attempts to reach the remote parts of the country. For example, in Temotu Province a team toured the remote parts of Tikopia and Anuta islands. These are remote islands in the country that were normally not reached in past consultations and surveys.

This showed that the methodologies adopted in this consultations were relevant and democratic. Participation was important in these consultations and this was reflected in the mass collection of views and opinions of Solomon Islanders.

7.5 Interest Groups – Existence of various interests

There were criticisms that the constitutional reform process was riddled with various interests of political groups trying to influence or manipulate the final outcome of the draft federal constitution. It was alleged that these interest groups used their position and financial power to influence the reform process. For instance, currently the constitutional reform program is fully funded by the national government through the Constitutional Reform Unit in the Prime Minister’s Office. The close association of the constitutional reform administration with the Prime Minister’s office had drawn wider criticism towards the roles of the various Prime Ministers in the constitutional reform process. Commentators had attributed the constitutional reform process to the sole determination of former Prime Ministers.

241 Interview made with Lenora Hamilton, team leader for Western Province during the UNDP survey (2003), 2009.
244 Solomon Star, 16th September 2008.
Manasseh Sogavare and Sir Allan Kemakeza to see the change in the government system of Solomon Islands.\textsuperscript{245} This is further evident in the direct approach taken by the successive Sogavare Governments to ensure the constitutional reform process achieve its aims.

Other later governments such as the Derrick Sikua government are not keen on the constitutional reform process, but are continuing on with it as a form of continuance with government policies and the TPA. This is evident in the proposed move by the Sikua government to increase the number of Parliamentary seats or constituencies for Solomon Islands.\textsuperscript{246} This is seen by many constitutional commentators as an attempt to undermine the constitutional reform process.\textsuperscript{247} Others even see it as an attempt to appease the desire for state government.\textsuperscript{248}

It has further been alleged that aid-donors are also not supportive of the federal system of government. For example, some eminent Solomon Islanders I interviewed pointed out that the Australian Government does not favour the federal/state government system and may derail the efforts made in constitutional reforms.\textsuperscript{249} The reason put forward is its self-interested nature because Australia, as a key aid donor to Solomon Islands, is quite concerned with the purported expenses pertaining to the running of the state government system.

This demonstrates that not only are Solomon Islanders interested in the process, but they are stake-holders as well: they all participated in the process to ensure their views were considered or taken note of.

\textsuperscript{245} ibid.
\textsuperscript{246} Solomon Star, 15\textsuperscript{th} July 2009.
\textsuperscript{247} ibid.
\textsuperscript{248} ibid.
\textsuperscript{249} Private conversation with Leonard Maenu’u, former Lands Commissioner of Solomon Islands – in an interview, July 2009.
7.6 Constitutional Congress (CC) and Eminent Persons Advisory Council (EPAC) Membership – Is it reflective of the Solomon Islands populace?

7.6.1 Membership

The majority of the congress members and the eminent persons are senior Solomon Islands citizens.\(^{250}\) The membership ranges from retired politicians and public servants to senior academics, religious leaders, and senior women. Each province was responsible for the nomination of its nominees.\(^{251}\) The selection of nominees was based on criteria including the nominees’ areas of work, experience and qualification.\(^{252}\)

Critics argued that some of these nominees, though they were nominated by their respective provinces, were based in Honiara.\(^{253}\) For example, Malaita province nominated Alice Pollard as one on its nominees, although she resided and worked in Honiara. There are other examples of such nominations like this to the Congress. The important question is, does such choice of nominees represent the general populace of Solomon Islands?

In deciding on who should be their nominees, provinces do not restrict themselves to their provincial boundaries. The aim of the provinces was to recruit the best

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250 See Appendix V on membership of the Constitutional Congress and Eminent Person Advisory Council.
251 Marilyn Maeta, in an interview, 13\(^{th}\) July 2009. Marilyn Maeta is the media officer of the Constitutional Reform Unit and she has been involved in a lot of awareness programs, on TV and Radio, to promote the draft federal constitution. She has an enormous wealth of knowledge on the constitutional reform process.
252 For example, a good number of the nominees were former politicians, public servants, and social workers. They are qualified people in fields such as sociology, anthropology, law, economics, education, medical health, theology etc.
people who they think would better represent them in the CC.\textsuperscript{254} Therefore, irrespective of whether a person resides within the province or not, if he/she is seen as fit to perform those duties then he/she is nominated. This was the argument raised in defence by provinces who nominated people who lived and worked in Honiara. Therefore, it rendered the argument of domicile null.

However, an important point worth raising here is the lack of recognition given to the provincial districts when identifying nominees. For example, restricting provincial nominations to only three will see districts or language groups left out since they were not associated with the process. Remember a key factor this process needs to create is the ‘sense of ownership’ by the people over the new system of government. If this constitutional process is intended for the people then membership of the Congress for each province should be expanded to ensure representatives from the rural areas can share their concerns as well. There is no guarantee that all the views of the people were collected during the consultations, and further still; the nature of discussion at the plenary meetings is quite different because it requires decisions to be made by members that were present during the meetings. And if an issue that was not raised during the consultations arises, a decision has to be made. An expanded membership of the Congress will ensure provincial nominees are well equipped for such scenarios.

Nevertheless, I hope the consultations carried out by the congress members will render such concerns redundant. As pointed out, the constitutional reform process is a very expensive exercise.\textsuperscript{255} It would be very expensive to expand the Congress membership to represent all the different districts or cultural groupings in the country. However, it must be noted that such expenses are expected, and if the

\textsuperscript{254} ibid.
\textsuperscript{255} ibid.
government is to get a greater level of participation from the people it should not consider expenses as a hindrance to expanding the members of the Congress.

### 7.6.2. Attendance and participation

An analysis of the level of participation of the members of the congress and the eminent persons at the first general plenary meetings is also important. It will show how much input each member had in the plenary discussions, which will also determine the contribution of each member to the final draft.

Figure 7.1 below shows the total attendance of the Congress and EPAC members to the plenary meetings held from the 4th of May to the 26th of July, a total of 38 days.\(^{256}\) It was during this plenary session that the first 2009 draft of the federal constitution was approved. The graph shows that only thirteen percent of the participants attended all the plenary meeting sessions.

*Figure 7.1: Graph showing the attendance of members at the Plenary Meetings.*

<table>
<thead>
<tr>
<th>Distribution Range</th>
<th>Percentage</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absent/Not attend a single meeting</td>
<td>15</td>
<td>9</td>
</tr>
<tr>
<td>10 days and less</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Between 11 - 20 days</td>
<td>6</td>
<td>22</td>
</tr>
<tr>
<td>Between 21 - 39 days</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Between 31 - 37 days</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>Attend all days</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

256 Data information for this graph was provided by the Constitutional Reform Unit, 2009.
In contrast, fifteen percent of members failed to attend the meetings at all. Another fifteen percent attended no more than 20 sessions each, with some as low as two or three sessions only. The majority (57%) of the CC and EPAC members attended in a range of twenty-one to thirty-seven days. In other words, they attended a good number of the sessions, though; they may fail to turn up at some point during the sessions.

The graph (Figure 7.1) shows that attendance to the plenary sessions was inconsistent. It drew questions and criticisms on the commitment of nominees and elders to this important event. Further still, it brought back the issue of participation and contribution to the final draft of the federal constitution.

A closer look at the data showed that a majority of the 13 percent that attended all the sessions were EPAC members, the remainder were provincial nominees from Malaita and Makira provinces and Honiara City. Ironically, of the participants who attended at least 30 of the 38 plenary sessions, only two were from Guadalcanal and Western Provinces. Being the two provinces that had been in the forefront of the push for the federal system, they should, one would have expected, have been active participants to the joint plenary meetings.

The point is, if the draft federal constitution is to be considered an important document for the future of the country then it is very important that all members must attend the plenary sessions.

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257 EPAC has a total membership of 20; however, the only ones who attended all sessions were Colin Gauwane, Dr. John Roughan, Samasoni Tapualiki and Daniel Ho’ota.
258 Hudson Kwalea.
259 Clara Rebitali.
260 Joseph Huta.
261 They were former Parliamentarians Hilda Kari and Jackson Piasi.
The second graph (Figure 7.2) showed the reasons given by participants for not attending the sessions. The accumulated number of days for all the participants who missed sessions was 748 days. In seventy-eight per cent (78%) of the accumulated days no reasons were given by the participants for their absence. The percentage of unexplained absences is big and it does cause difficulties to proceedings of the sessions as well. For example, in one of the sessions I attended a number of participants were missing, including the chairperson and the deputy chairperson. The meeting was informed of the chair person’s absence, but not of the absence of the deputy chair person. As a result an ad hoc appointment had to be made so that the plenary session could continue. This showed a lack of respect for the meeting and the expectations the nominating provinces placed on nominees.

In eleven per cent (11%) of the absent days the reason given by participants was ‘to attend to other important business.’ The attendance information did not provide any

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262 Information supplied by the Constitutional Reform Unit, 2009.
263 I reached this figure by adding the amount of days missed by the participants at the plenary sessions. Between all the participations, they should accumulated a total 2052 days if all attended.
definition or clarification on these important business matters. It is difficult to comprehend what other business could be so important as to overshadow the presence of a participant at this plenary meeting. When asked about the reason why one of the participants was missing, the answer received from one of the participants was that that person went to town to arrange for a ship charter to his home island. If this is the kind of ‘important business’ that the Congress and EPAC members are involved in during the plenary meetings, rendering them absent, then the Constitutional Review Unit needs to review their list of nominees and appointees to the committees.

Despite this absenteeism the majority of the members are committed to the constitutional reforms, though they may have missed a couple of days. As the figure 7.1 showed, the majority of the participants attended between 20 and 37 sessions out of 38 sessions. This adds weight to the claim that the plenary sessions were in fact representative of the general public.

7.7 Is consultation Inclusive?

This part of the chapter discusses the representation and participation of various groups in the consultation process. It will discuss and assess their participation and level of participation in the various consultations.

7.7.1 Youth and Women

Concerns were raised that various groups such as the women and youths were not involved in the preparation of the State Government Task Force Report and most do
not know about the existence of such report. Furthermore, it was alleged that women for the most part were not involved in formulating provincial proposals on decentralization. For some provinces, according to the Socio-economic Study Report (2003) appointed committees did consult women; however, such consultations were minimal and restricted to unimportant matters as compared to issues such as the assessment of the overall purpose, process and impacts of the state government system at the village level.

These are serious allegations that need rectification. The important question that needs to be asked is what importance does the SGTF have in identifying the basis of the Draft federal constitution; and if so would the exclusion of women severely affect their findings? As earlier chapters have pointed out, the SGTF plays a very important part in advising the Government about the desire for more decentralization and identifying a model of government to be used. However, the exclusion of women from the Task force did not impair the findings of the Task Force. The findings of the SGTF were mainly based on earlier consultation reports – it was just a task of collating those findings and deriving workable instructions for drafting. The important areas should be the consultation stage and the congress, in which women participated significantly. Therefore, the argument that the exclusion of women from the SGTF had resulted in a greater disadvantage to women in the consultation process does not hold much water.

Women representation was high in the CC as it was a requirement that provincial and national nominations must take into the equation the issue of gender. Each province nominated a female member to be in the CC to represent the perspective

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265 ibid.
of women from the provinces. Also these women nominees were selected from various backgrounds and involvement with women in their respective fields. For example, Malaita Province nominated Alice Pollard as one of their nominees. Alice Pollard is a renowned Solomon Islander who had worked in various sectors in Solomon Islands on issues relating to women. Similarly, there were other women such as Catherine Pule, Judith Fangalasu, Connelly Sandakabatu and Phylisca Fate, who were nominated as national nominees with a vast knowledge of issues relating to women from the various backgrounds ranging from girl guides head to church work, education, and youth issues. These women representatives brought with them a wealth of experience and understanding of issues relating to women.

The only drawback to women is the nature of selecting nominees either by provinces or the national government. Almost all of the women representatives are based in Honiara, and do not reflect the opinions the majority of women from the rural areas. Thus the question worth asking is whether these nominated women really represent the views of the majority of women in the rural areas or only the views of those who resided in the urban areas.

Also various women groups in the country made oral submissions before the various constitution reform committees as well. For example, in Honiara the National Council of Women (NCW) made a presentation before the CC highlighting their views on the draft federal constitution. Another meeting was held on the 13th of August 2008 where members of the CC for Honiara City Council met with women leaders from various organizations in the city. No separate consultations were

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conducted for women or youths in any of the other provinces by their respective CC teams.

Youths on the other hand were underrepresented at the plenary meetings or in the general make-up of the CC membership. At the moment, there were only two youth representatives in the CC, both of them based in Honiara. According to the CRU, plans are underway to engage youths throughout the country to participate in the constitutional reform process in the country. Until those plans materialize, at the moment youths are underrepresented at the national level and may have an impact on any future implementation of the draft federal constitution. Based on the reports, Honiara City is the only area where youths were consulted during the consultations carried out by the CC members.269 The obvious reason for this is the advanced level of youth involvement in national issues in the capital as compared to the rural communities.

7.7.2 Church Groups

Solomon Islands is a Christian country and churches play a very important role in the communities. As a result, it is also important that churches were consulted on these constitutional reforms. The research has shown that churches participated in the consultations as well. The UNDP reports, MPs’ report, Provincial governments’ reports and the CC reports show that church leaders were consulted on these reforms. On some occasions, special meetings were held purposely for church delegations.270 For example, the Central Islands Province CC members met with members of the Anglican clergy in Tulagi in 2008 to brief them about the draft federal constitution.271 On other occasions, church representatives made

269 ibid.
271 ibid.
submissions on behalf of the church or churches before the touring consultation teams. This was done in Honiara in 2008 when the Solomon Islands National Council of Churches Association (SICCA) made a presentation before the constitutional reform team on the draft federal constitution.

The engagement of the religious bodies in the constitutional reform process is a very important step towards public participation because a large number of Solomon Islanders are affiliated with these church groups, and the church can raise issues on behalf of their congregation members. In some parts of the Solomon Islands churches played a huge role in their local politics. For example, on New Georgia the Christian Fellowship Church played a very important role in its politics. Isabel province is predominantly controlled by the Anglican Church, and the church played a huge role in its politics. All this showed that the church is a key player in Solomon Islands communities and they represented a large population of Solomon Islanders as well.

7.7.3 Traditional authorities

Traditional authorities are another important category of people in Solomon Islands. Research showed that this category of leaders did not contribute much to the constitutional process. I agree that chiefs were consulted during the consultation process; however, the level of consultation carried out with the chiefs and traditional elders was done on an individual basis. For example, discussions were held with respective individual chiefs during the consultations to collect their personal views on the constitutional reform process. Another added bonus was the

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273 ibid.
274 The current MP for this Constituency, Job Duddley Tausinga, maintained his seat largely because of the religious allegiance people in this area had towards his father, the founder of the Church of Christ (COC).
275 For example, the late paramount chief of the island was a former bishop of the Anglican Church.
inclusion of the Guadalcanal Chief Sabivo Laugana. Again, this was just a single appointment by the government with no mandate to represent the views of all chiefs on Guadalcanal or Solomon Islands. The CC members of Guadalcanal took extra measures to consult members of the Qaena-Alu movement about the draft federal constitution. This is good because it reached out to the traditional communities as well.

Nevertheless, very few of the traditional authorities throughout the country were consulted or made submissions to the constitutional congress members. I am of the view that there should have been combined submissions made by the various houses-of-chiefs throughout the country to the constitutional congress. This is to ensure they carry more weight compared to individual submissions, as well as deliver on the promise of an autochthonous constitution made within the country by the citizens of the country itself. It would have been a boost to the drafting committee if combined submissions had been presented.

The failure to gauge more representation from chiefs and elders may also have some impact on some provisions of the draft federal constitution in the future. For example, there are certain provisions of the constitution that may be considered as potential dangers to the role of custom and traditional leadership that is supposedly guided by the chiefs or village elders, for instance, issues such as the application of human rights and customary law. A combined submission by various houses of chiefs could have raised more awareness with the drafters to take note of such sensitive issues in Solomon Islands.

### 7.7.4 Minority groups

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276 He was nominated as a national nominee to the Constitutional Congress by the national government.
277 In other literature publications this movement is referred to as the Moro Movement, using the name of the leader of the movement, Pilesi Moro, to describe it.
There was little discussion on the participation of minority groups in the constitutional reform process and consultations. For purposes of this paper, minority groups refers to non-indigenous Solomon Islanders – including the Chinese, Gilbertese, Europeans and other Pacific Islanders who had settled in Solomon Islands since the late 19th century. However, in terms of consultation, the minority groups were widely consulted. These consultations included visits made to these groups or communities. For example, the Gilbertese communities of Wagina in Choiseul and Gizo in the Western Province were consulted during all the consultations that were carried out so far. Similarly, the national government took further steps to include representatives of these minority groupings in the Constitutional Congress.

Therefore, in terms of the different minority groupings in Solomon Islands, attempts were made at all levels to include them in consultations and the participation process. It is up to these representatives to attend meetings on behalf of their respective groupings. For example, during the plenary meetings the Gilbertese and Tuvaluan community representatives were present throughout the meetings. However, the same cannot be said about the Chinese; the attendance data collected showed that the national nominee for the ethnic Chinese citizens missed all the plenary sittings. Nevertheless, it is a bonus to see that these minority groupings were consulted and participated in the constitutional reform process.

7.8 Consultation – The extent of consultation

7.8.1 Early consultations (Pre-1998)

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278 This does not include indigenous minority groups such as the Polynesians of Tikopia, Rennell, Bellona, Sikaiana and Lord Howe islands, who settled the islands after the Melanesians occupied the much bigger islands.

279 Information collected from the Constitutional Reform Unit, 2009.
As indicated in earlier sections of this paper, consultation into identifying an ideal alternate system of government for Solomon Islands started well before independence. In December 1977 a Special Committee under the leadership of veteran politician David Kausimae was appointed to review the provincial government system in Solomon Islands. This committee was appointed in response to grievances raised by members of Parliament for Western Province.280

A nationwide consultation was carried out with the different provinces. Trained government personnel were dispatched to the provinces with the instructions to report back to the central government the views of the provinces and their people on the system of government that they preferred for the country. The findings from the provinces were overwhelmingly in favour of the federal system of governance to be introduced in the country. However, the government failed to take any serious note of the findings of the consultations, resulting in the unilateral declaration of self-government by the Western Province.

Another committee called the Lulei Committee was appointed in 1986 to review the provincial government system.281 Again, after consultation with the provinces, the report recommended a federal system of government for the country. In 1987, a major review committee was established with the task of carrying out a review of the Constitution of Solomon Islands. It conducted extensive consultations throughout the provinces, documenting the people’s submissions and desires. The findings of the consultations were published in three volumes highlighting the desire for a federal government system.282

280 John Tuhaika, 2005, “Political and historical issues that influence constitutional making in Solomon Islands,” p.3.
282 ibid.
Figure 7.3 Table showing the major reviews and surveys conducted by the government prior to 2000.

<table>
<thead>
<tr>
<th>Name of Committee / Review</th>
<th>Finding / Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977 - Special Committee to the Provincial Government System (Kausimae Report)</td>
<td>Recommended State Government for the new country</td>
</tr>
<tr>
<td>1986 – Committee to review the government system (Lulei Report)</td>
<td>Recommend the introduction of a state government system</td>
</tr>
<tr>
<td>1987 – Constitutional Review Committee (Mamaloni Report)</td>
<td>Option A – continue with the unitary system but with gradual decentralization of power to provinces. Option B – Introduce federal or state government system</td>
</tr>
<tr>
<td>1999 – Tozaka Report</td>
<td>Recommend continuation with the Unitary system of government.</td>
</tr>
</tbody>
</table>

Source: Compiled by Paul Mae 2009.

In all these reports, it is evident that consultation had been carried out by those tasked with carrying out these reviews or surveys. Whether the review was to assess the provincial government system or review the constitution, people continued to press their desire for a federal or state government system. If one looks closely at the span of time over which these surveys were conducted, it can be noticed that it covered a period of more than twenty-one (21) years, and the outcomes are too consistent to be manufactured. Also it is important to note that these surveys covered about three generation groups of Solomon Islanders. The only possible explanation for the diversion of recommendation in the Tozaka Report could be because of the proposed re-structuring of the provincial government system undertaken by the Ulufa’alu government at the time of the survey. Otherwise, the
author is of the opinion that the recommendation could have been the same as the previous reports and findings.

7.8.2 UNDP Consultations (2003)

By virtue of an agreement signed with the National Government in early 2002, UNDP was commissioned to carry out consultations and surveys in Solomon Islands on the prospect of introducing a federal system of government. UNDP carried out two consultations. The first was in February 2002 when 9 teams were dispatched to the provinces.²⁸³ A second consultation was carried out in August 2003, using the same teams and targeting the provinces as well. According to John Tuhaika²⁸⁴ the findings of the nine teams were conclusive; people in all nine provinces were in support of the introduction of a state government system.

The findings on these UNDP consultations showed that the views of the people on the form of government system for the country are consistent with the past demands for a federal system. Furthermore, a higher level of educated people in the rural communities elevated the understanding of people of the federal system to another level. This meant that the people are more aware of the system and its implications and are adamant that it is the best government system for the country.

The UNDP consultation/survey differs from the past surveys because it was conducted by a body independent of the government. All the past consultations and surveys were carried out by teams put together by the government, and in most

²⁸³ Tuhaika, J. 2005, “Political and historical issues that influence constitutional making in Solomon Islands,” p.3.
²⁸⁴ Tuhaika is a former Permanent Secretary (PS) of the Ministry of Provincial Government, and later former Permanent Secretary of the Constitution Reform Unit. He was actively engaged in all these consultations until 2008, and was replaced by Fredrick Rohorua as the PS for the Constitutional Reform Unit.
cases were headed by politicians. The UNDP survey, though sanctioned by the government, runs independently from any government interference. The important point is that the UNDP report corroborate the findings of the past consultations and surveys. The UNDP report further set aside any doubts about the authenticity of those previous consultations, surveys and reports. The consistency shown by the UNDP report indicated that the people’s desire for the federal/state government system is not manufactured by politicians but is a long-term wish of the people of Solomon Islands.

### 7.8.3 MPs Consultation - 2005

The MPs consultation carried out in 2005 was purported to be extensive and thorough to let the people know about the draft federal constitution and also gauge their views on its content. The MPs were each granted twenty thousand ($20,000) by the government to visit their respective constituencies and inform and at the same time consult them about their views for the draft federal constitution. The aim of the consultation, as was highlighted earlier on, was purposely to present the then new draft federal constitution to the people and report back to the constitutional reform unit. However, research showed that the consultation was uncoordinated, inconsistent and lacked any quality findings. For example, majority of the reports were ill-structured, and lacked any detailed minutes or discussion of the consultation process followed, the feedback from the communities, and the general view from the people. Most of them were brief and lacked quality presentation standards; a poor reflection of the amount of money invested by the government in this survey.

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285 See Appendix VII and Appendix VIII.
286 See appendix VII for the report submitted by the former MP for Auki/Langalanga, Bartholomew Ulufa‘alu.
The possible reason for such inconsistent reporting could be the lack of training for those who assisted the MPs carry out the consultation. Also there is evidence of a lack in qualified personnel, clear guidelines and the personal limitations of the MPs. For instance, a few MPs recruited qualified legal draftsmen to assist them during these consultations whereas others saw no need for such legal professionals. This also reflected on the final report prepared by the MPs for the cabinet. The late MP for Auki/Langalanga\(^{287}\) submitted a one-page report giving a general outline of the consultation and the position of his constituents. The quality of the report was very poor; even simple English errors were visible to readers.

A similar reference of poor consultation reporting can be directed towards the MP for Central Kwara’ae Constituency, Fred Fono. In a letter published in the local newspaper some constituents accused the MP of doing a very poor job with the final report.\(^{288}\) The MPs report on the MPs Consultation was brief and did not include the views and speeches made by individuals during the consultation. In a general assessment of the MPs consultation, the Malaita Constitutional Congress Report has this to say about it:

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\text{The consultations done in the past by the Malaita members of parliament are nothing more than rush consultations. It was raised that in a lot of places the MP's spent no more than one hour and rushed the discussion instead of spending more time so that there is a thorough explanation of the system.}\]^{289}

The important point to note is that given the magnitude of the process the expectation is for all MPs to conduct a consultation and report back to the

\(^{287}\) Late Bartholomew Ulufa’alu – see the Auki/Langalanga 2007 Consultation Report, Appendix VII.
government. Such reports should reflect on the events, the locations visited, the views of the people on the draft constitution and any general advice for improvement. Only a few of these reports satisfy these criteria, leading one to conclude that the MPs consultation process was a general fiasco, leaving more questions than answers. For example, the Ma’asina Forum alleged that the reason Fred Fono did not include the minutes and speeches made by participants during the consultation were because most of the participants did not approved federalism. Such alleged poor reporting by MPs and stakeholders engaged in the consultations with the general public needed to be transparent or otherwise such reports could be open to debates.

7.8.4 Constitutional Congress Consultations (2008 – 2009)

CC members also carried out consultations in their respective provinces. Unlike the previous consultations, the consultations carried out by the CC members are purposely to talk to their people and seek their views. Since the CC members are the recognized representatives of the people when the plenary meetings convene, it is important that they sought out the views of the people.

The importance of the CC cannot be overstated because it is the only medium of connection the people have towards the final drafting of the constitution. Therefore, whatever amendments or changes people want to be made to the 2004 draft of the federal constitution have to be mediated through these congress members. The congress members’ role is to solicit feedback and present it during the plenary meetings. However, the important question that one may ask at this stage is whether these consultations were directed towards these aspects of the reform process. This is not the case. From observation of the consultation minutes and

The CC members misinterpreted the role in the consultation process and instead on a number of occasions presented themselves as agents of the CRU with the direction to explain the draft constitution to the people or clarify areas of interest to the people. Furthermore, they played the ‘filtering’ role for the government by declining propositions from the public that may have seemed contrary to some of the terms of the draft federal constitution. Their role as mentioned earlier was basically to solicit feedback and present it on behalf of the people at the plenary meetings. On other occasions, members of the congress set up additional agendas which were not supposed to be part of their objectives. For instance, in an outline distributed by the Makira/Ulawa CC Team for discussion, additional headings were inserted to the ones outlined in the 2004 constitutional draft, to the extent that some of these headings are contradictory to those already in the draft. The underlying point is that when the people heading such important consultations do not know their roles and functions, there is a high likelihood that the general population can be misled as well.

7.9 Views of the Provincial Governments

From the results or recommendations of the various constitutional reviews and provincial government reviews that were conducted since 1976 the general view was for the establishment of a federal or state government system. This part of this chapter will look at the respective views of the provinces since independence on the issues of state government and decentralization.

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Central Islands Province has been a passive advocate of the federal government system, only indicating their preference for it during consultations and surveys. This is unlike Western and Guadalcanal provinces, for which research had shown that there was no desire for a federal system of government prior to the events of 2003–2003 (crisis) besides the findings of the CRC in 1987. Nevertheless, the 1987 position was reiterated during the Buala Premiers Conference (2000) and adopted in later reports.

The reasons for Central Islands’ Province’s desire for the federal government system were the same as the rest of the provinces, citing lack of development initiatives and decentralisation from the central government. Speaking during the Province’s Second Appointed day in June 2007, the Premier of Central Islands Province, Patrick Vasuni, described the current provincial government system as not in line with the government development approaches such as the ‘bottom up approach.’

According to the Premier, provinces are overly reliant on the central government for finances and manpower, which were inadequate and most of the time rendered their planned activities non-achievable. The premier stated that “…the current provincial government system is weak and inadequate to embrace rural development. Legally the system is not competent to enforce rural development and lacks capacity to enter into contractual agreement.” The crux of this point is that the provincial governments have powers only in theory; practically, they cannot engage in development contracts or partnership with investment partners without the central government’s approval. It was envisaged by the Provincial leadership that

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the federal system of government will boost the ‘bottom-up-approach’ as provinces will be able to use revenue derived from their jurisdictions as well as manpower.

The province’s position on federalism was reaffirmed in late 2008 in the CC team’s community consultation preliminary report. All communities visited by the constitutional congress team were adamant that the way forward for the country is through the federal system. In this report the province opted for a gradual transition, with the intention of becoming a territory of the federal government before becoming a full state. The reason for such a calculated approach could be because of the lack of basic infrastructural development. Thus, it is assumed that the transitional period should be used to develop its infrastructural base before the province could become a state.

(ii) Guadalcanal Province

Guadalcanal Province’s position on the federal system of government remains consistent with its stand in the Kausimae CRC report in 1987. As the province that hosts the national capital of Solomon Islands, Guadalcanal province experienced a lot of challenges associated with it. Examples include, the continued expansion of the Honiara city boundary without the consent of customary land owners; the increase in squatter settlement on customary land; and the disrespect towards Guadalcanal people and their culture by people from other islands. The decentralization of power from the central government will provide more power to the province to deal with these issues.

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295 ibid.
Furthermore, the province was upset by the manner in which the wealth generated within the province was redistributed throughout the country based on a formula designed by the central government without the province’s approval. For instance, Guadalcanal province had played host to a number of major developments in Solomon Islands such as the oil palm plantations, Gold Ridge and logging; and it was the province’s desire to see money generated from their resources used to develop the infrastructure within the island.\textsuperscript{296} However, the government’s distribution formula operates in a way in which the provinces with the largest population get the larger share of the revenue compared to those with a smaller population, even though the bulk of the revenue from resources was generated from the province.\textsuperscript{297} This was considered unfair and unjust by Guadalcanal Province and its demands for the state government system have remained the same till today.

The failure of past governments to consider these demands and calls for state government seriously has culminated in the 1998—2003 crises, resulting in mass destruction to the country’s infrastructure and economic systems.

(iii) Isabel Province

Isabel Province’s position was clear at the Premiers Conference in 2000: the province wanted a system allowing for more decentralization of the central powers of the government.\textsuperscript{298} Though Isabel Province was not one of the provinces that had called for a federal system of government after independence, the 1987 CRC report showed that it is supportive of the federal system for Solomon Islands.\textsuperscript{299}

\textsuperscript{297} ibid.
A closer analysis of the Isabel stand showed that there was a slight difference in the system of government put forward by the province. Though the province agreed with the idea of a federal system, it nevertheless wanted the federal system to operate in a tripartite structure, giving recognition to the traditional leadership, church and the formal government system.\footnote{Isabel Constitutional Congress, “Report on Nominees Community Identification,” 26th September, 2008.} Recent surveys show that this wish is consistent with their earlier wishes since the 1987 report.

This raised further questions as to whether the idea of a federal system is widely understood in Solomon Islands, or whether different people have different understandings of how the system should look or operate. The case of Isabel showed that though they agreed with the adoption of the federal system, the perception of how the system should operate is totally different from how key players such as the Western and Guadalcanal provinces perceived it. Thus, it poses further questions as to whether there should be further consultation carried out to determine the type of government system that should be adopted in the country.

\textit{(iv) Malaita Province}

Malaita Province is perhaps the only province that still maintains mixed feelings on the issue of decentralization. Available literature shows that though decentralization is an issue, the province still maintains that the current system of provincial governments is capable of serving the needs of people in the rural communities.\footnote{This stand is strongly advocated by Andrew Nori, Malaita Premier Irosaea and the Civil Society group \textit{Ma’asina Forum}.} It is just a matter of government failure to empower the provinces to operate on their own.
The constitutional review findings since independence showed that Malaitans, like all other Solomon Islanders, approved the federal system of government for the same reasons raised by others. However, on the provincial and national front there seemed to be contrasting messages coming out from Malaitan leaders. Andrew Nori, a prominent Malaitan leader, is adamant that the provincial government system is adequate for Solomon Islands; taking into consideration the financial burden the new system will place on the newly formed states.\(^{302}\) On the other hand, extreme lobbying groups such as the Ma’asina Forum demanded absolute Independence for Malaita.\(^{303}\) In a resolution passed in 2004, it was asserted that the Malaita Provincial Government had opted for Independence from Solomon Islands, a claim bluntly refuted by the current Premier of Malaita.

Despite the mixed messages coming out from various Malaitan leaders and the province, the views of the ordinary people are clear; people are in support of the federal system. One Malaitan leader pointed out that the people of Malaita are supportive of the proposed federal system.\(^{304}\) It is the petty politics of the provincial leaders and the national government that is creating complexities.

\((v)\quad \text{Makira/Ulawa Province}\)

Makira Province indicated in the 1987 CRC Report that its people desire a federal system of government. Prior to that my research does no show any indication or desires by the province to adopt a federal system of government.

The events of 1998—2003 (crisis) brought about a desire to secede from Solomon Islands, citing unfair treatment in development goals to provinces, lack of

\(^{302}\) Ironically, this is a turnaround from his original position, which was widely documented in the CRC Report in 1987.


\(^{304}\) “Interview made with Colin Gauwane, a member of the Eminent Persons Advisory Council (EPAC)”, 10th July, 2009.
development and lack of basic necessities. The province’s desire to secede was later downgraded to acceptance of the idea of a federal system of government. Since the inception of the first draft of the federal constitution (2004), the province had been working on plans and proposals to further the federal system of government. For instance, in 2007 during the province’s second appointed day the Premier read a number of promulgations empowering chiefs with more authority and power of control in their communities and regions.305 The Premier announced that these measures were taken by the province in anticipation of the future federal system of government.

(vi) Rennell and Bellona Province

Rennell and Bellona, since its inception in 1994, had continued to harbour feelings of being ignored by the central government. People of the province felt that they were being marginalized in a Melanesian dominated country.306 Rennell and Bellona Province is the only predominantly Polynesian province in a country dominated by Melanesians. Rightly so, the people had reserved feelings towards the government policies and the lack of development in the province.

Nevertheless, the province was not considered as one of the active supporters of the federal/ state government system. During the early consultations carried out prior to independence and after independence up to 1994, the voice of the people of the province was counted together with the other Melanesian dominated islands that made up the Central Islands Province. It was not until after 1994 that the two islands of Rennell and Bellona were formally recognized as one separate province.

The events of 1998—2003 had a major impact on the province’s outlook to development and commitment from the central government. In early 2000, the province declared its interest in becoming a country totally independent from Solomon Islands. During the Premiers Conference in Buala in 2000 it was resolved that provinces that had the desire to seek independence will do so individually with the central government on an individual basis. Since then the province’s stand on the issue of independence has watered down.

Nevertheless, the province continues to participate in the consultation process towards constitutional reform and the introduction of federalism. From such participation, the author is of the view that the province had relinquished its desire for independence and is now viewing the state/federal government system as the best alternative to absolute independence for the province. The report on identification of political communities re-affirmed the province’s position on the draft federal government system. All the provincial government leaders and community elders were adamant that Rennell and Bellona Province should become a state when the proposed draft federal constitution comes into effect.

(vii) Temotu Province

Temotu Province is one of the least developed provinces in Solomon Islands. In the 1987 CRC report the province fully supported the recommendation for federal system of government. However, the province remained passive supporters of the federal system with no public demands for its immediate introduction. It was not until the events of 1998—2003 (ethnic tension) that the province started to public demand statehood and independence from the central government.

307 ibid.
The province’s call for statehood or independence was mainly due to the fact that the central government failed to provide basic necessities and development to the people of the province.\textsuperscript{309} As one of the provinces strongly hit by the events, such a reaction is expected as the province attempted to put pressure on the government to provide similar developments committed by the government to Malaita and Guadalcanal provinces under the TPA.

The call for full independence was downgraded to support for federalism in later years as the province endorsed the constitutional reforms. In his inaugural speech in 2009, the new Premier of the province, Mr Daiwo, reiterated his province’s support for the federal government system. He stated that “...if the majority of the people want the Federal system then we will go along with it, we will also support it because it is a government initiative.”\textsuperscript{310} These words say a lot about the province’s position. At the outset, it means the province is committed to the constitutional reform process and is ready to embrace the proposed changes in the government system.

However, closer analysis of the words could draw concluding remarks that the province is reliant on the position of other provinces to determine its fate. What it says is that if the majority of provinces feel otherwise about the federal system of government, then Temotu province will also stand by their decision and follow it. The position of Temotu Province on the federal state government system was clearly resolved in the Constitutional Congress Report on Temotu Province (2008) where the province come out in support of the draft federal constitution and the move towards a federal/state government system.

\textit{(viii) Western Province and Choiseul Province}

\textsuperscript{\textit{309}} Solomon Star, 18\textsuperscript{th} September 2000.
\textsuperscript{\textit{310}} Solomon Star, 17\textsuperscript{th} March 2009.
Western Province and Choiseul province had been consistent with their demand for a federal system of government for the country ever since independence. Prior to independence bother provinces were combined as one province.\textsuperscript{311} Choiseul became a separate province in 1992. However, their position had always been the same, to become states. According to available literature they had always felt that they had contributed more to the economy of the country in terms of their natural resources; however, the returns in terms of finance and development are very low compared to other provinces with a much lower economic contribution.\textsuperscript{312} Also, Western and Choiseul provinces were fearful of the gradual expansion of the Malaitans through the government ranks and in the business sector.\textsuperscript{313} There was a desire to protect their provinces from such unwanted expansion in the spheres of influence. Therefore there is a need to prevent this, and the best possible way to do this is through extended powers granted to the provinces by the central government. However, such extended powers were not forthcoming in the current provincial government system, thus the best possible option is through a federal system of government.

Their position remained the same through the various constitutional reviews and provincial government reviews carried out by consecutive Solomon Islands governments. Today, despite being divided into two separate provinces, the desire for the federal system of government is maintained by the current group of leaders for Western and Choiseul provinces. This is affirmed by the respective position

\textsuperscript{311} Under the name Western Province.
\textsuperscript{313} Nori, A. 2003, “State Government: Throwing our people to the devil,” Solomon Islands Broadcasting Corporation (SIBC), Solomon Islands.
papers presented by the constitutional congress representatives of these two provinces in 2007 and 2008.

7.10 A truly ‘autochthonous’ Constitution

The process of constitutional reform in Solomon Islands was long process initiated immediately after independence. It was obvious to Solomon Islanders that the independence Constitution was not truly reflective of their views. The concerted and persistent pushed for a federal system and constitutional reform was recorded in almost all reviews and surveys carried out on the Constitution and the provincial government system. The early reports plus the post–2000 surveys and consultations formed the basis of the constitutional reforms.

These consultations, reviews and surveys fully documented the perspective of Solomon Islanders. The inadequacy of the of the provincial government system to deliver services to the rural communities highlighted the demand for the introduction of a better system. The roles of traditional leaders were not properly recognized under the provincial government system due to the diverse cultures in Solomon Islands, the diversity of the country makes it difficult to make and implement laws intended for a particular province (or state); and the need for flexibility to operate and enter into agreements with investors. These are but just

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some of the issues that Solomon Islanders continue to face and that have formed the basis of the constitutional reforms.

The reforms and the content of the draft federal constitution are not written by foreign lawyers just for the sake of creating a federal constitution as was the implied origin of the independence constitution. Rather, the content of the draft federal constitution was drawn from the wishes and prayers of Solomon Islands and balanced with the modern technicalities of today’s world. A good example is the attempt made in the draft federal constitution to balance the principles of human rights and the concerns of customary law in Solomon Islands. This illustrates the active role of the various concerned local groupings in the drafting of the draft federal constitution.

Thus, it is safe to state that the DFC of Solomon Islands is autochthonous. It has gone through a number of processes and a long period of time to reach the stage it has now reached. It was designed and developed locally with the technical assistance of overseas experts.

11. Conclusion

This analysis pointed out the fact that Solomon Islanders participated in and contributed to the making of the draft federal constitution. It clarifies concerns raised by a few Solomon Islanders and commentators that the reform process is not reflective of the views of the majority of people in the country. The chapter pointed out that some of these views were short-sighted and selective. This paper maintains the view that the constitutional reform process is a gradual process, and the renewed commitment shown by governments after 2000 to constitutional reforms is just part of the whole reform process that was started well before the independence celebrations. It therefore carries the views and perspectives of not only the current
generation of Solomon Islanders, but also the views of Solomon Islanders who had since long gone but were participants in the numerous consultations, surveys and reviews carried out in the past to map out a better future for the country.

The next chapter will look at some recommendations or ways in which the constitution reform process will need to assess itself in order to further improve the level of participation towards the draft federal constitution.
CHAPTER 8: THE WAY FORWARD – RECOMMENDATIONS

8.1. Introduction

This chapter looks at some of the areas that may require improvement to allow Solomon Islanders greater participation in constitutional reforms. In doing so, this chapter provides a number of recommendations, including areas such as (a) improvement of the link between states and the villages, (b) clarification of the parameters of the constitution making exercise, (c) call for more consultation with and participation of the educated elite of Solomon Islands, (d) extension of consultations to the online discussion forums, (e) assessment of Solomon Islands leadership behaviour, and (f) the possibility of establishing a bicameral system with the introduction of a national senate.

It is hoped that some of these recommendations, if the relevant stakeholders have not yet considered them, will be relevant to the constitutional reform process.

8.2 Recommendations

8.2.1 Linking the states with the villages

The constitutional reform process is on the verge of achieving a noble cause by giving more power to the people to determine for themselves their future and destiny in developing their respective communities. However, the important question that must be raised here is, how much of these powers will filter down to the village level? There is a fear that the system is susceptible to being hijacked by the power-hungry middle-class and the powers will not reach their proposed destinations. Phil Powell, a US economist, argues that the ‘impotence of the Melanesian state is caused by weak or non-existent links between the state and the
institutions that already exercise legitimacy in Melanesian life.” He further argues that the ‘successful re-design of the Melanesian state requires dilution of this mismatch and a graft of the state with traditional institutions so that legitimacy is effectively shared.”\textsuperscript{320} In other words, there needs to be a link between the state and the village committees or elders, lowest sectors of governance in the country. The area councils once created under the current Constitution to provide that link has since been disbanded in 1998.

According to the draft federal constitution of Solomon Islands, the federal system will operate in such a way that the existing nine provinces would become states with constitutional autonomy and greater legislative powers. The DFC does not provide a formula from which power will filter to the villages. This provides potential loopholes for corrupt opportunistic leaders to shut that linkage through the enactment of state laws. Katy Le Roy pointed out that according to the Powell perspective, turning provinces into immediate states ‘does nothing to enhance the legitimacy of government structures’.\textsuperscript{321} This calls for hindsight on the part of the constitutional congress members and to provide for the protection of such a link.

It is important that legitimacy is dictated by the people right at the lower echelon of the structure. Powell proposes that power be directly delegated to large numbers of villages or ethnically homogeneous groups.\textsuperscript{322} Katy Le Roy dismisses this as impractical for Solomon Islands, taking into consideration the country’s large population. I propose a delegation of power from the state level to the villages or clan groups to ensure wider participation in the political system and instilling a ownership mentality in the people. The simplicity of this proposal is that the large

\textsuperscript{321} ibid.
\textsuperscript{322} ibid.
population in Solomon Islands can be easily broken down into smaller manageable clan groupings or village groups, and if properly utilized, this could help avoid the perceived hijacking of power by the power hungry middle-class.

**8.2.2 Clarifying the parameters of the constitution making exercise**

There have been a number of misconceptions by readers and researchers that the parameters of the constitution making exercise were narrowly set and should be expanded to look at other possible options of governance as well. Katy Le Roy argues that the consultations carried out were purposely to determine whether people were in support of the proposed federal system of government.\(^{323}\) Its results were to be used as a yardstick to determine the support the proposed constitutional reforms have from the general population. These general misconceptions were raised possibly because of the lack of clarity in the parameters of the constitution making process. The process is generally referred to as the constitutional reform process in Solomon Islands, a generalization that would make readers assume that the constitutional reform process is all about finding possible alternative systems of governance for the country.

It should be noted that government action to heed the call of Solomon Islanders for federalism has long been overdue. It is common knowledge amongst Solomon Islanders that the people want a federal system of government, supported by past survey results. The recent surveys were rightly directed, as the government was clear on what it wanted to hear from the people. In other words, the surveys can be considered as re-confirmation exercises in which the government sought to hear the views of the people and see if there have been some changes since the past surveys

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were conducted. Thus to call for an expanded parameter for the current survey such as the UNDP survey is considered ignorant at the least of the consultative processes carried out in Solomon Islands on these issues since independence.

8.2.3 Calling for more consultative participation with members of the educated elite living and studying abroad

Solomon Islanders living abroad should be encouraged by the CRU to participate in the constitutional reform process as well. It will be beneficial to the reform if such an opportunity is provided to Solomon Islanders who live or study abroad. With their level of education and experience, they will be able to shed more light on some of these constitutional and political issues facing Solomon Islands. Not only that, but some of these Solomon Islanders living abroad might be living in countries that operate under similar political systems such as the federal system of government, therefore they would be in a better position to inform Solomon Islanders about the operations of such system, which would be a plus besides the usual foreign expert advisers.

Also it is important to involve young Solomon Islanders studying abroad in the process to ensure they feel part of the process. It is logical that once this proposed federal system comes into play the most likely group of people that will implement it will be those who are now doing their studies; and not necessarily the common folk consulted in the rural areas. Therefore it is important that Solomon Island students are made part of the constitutional reform process to ensure they have a sense of ownership when implementing it in the future.

8.2.4 Extending Consultations to the Internet discussion forums
The internet is one of the latest modern technologies to reach Solomon Islands, connecting people with relatives and wantoks throughout the world. Today a lot of interaction is carried out through a system that links people together. For instance, there are online discussion forums and online news outlets that are frequently visited by Solomon Islanders. A lot of these websites were setup by individual or group of Solomon Islanders to discuss issues of importance to them. Obviously, the constitutional reform process is a very important issue, and if properly planned should feature in all of these web pages. Unfortunately, though, the CRU web page does not provide an avenue for active engagement with the general population, unlike these websites run by Solomon Islands individuals or groups.

I wondered how much attention is given to these online discussions. For instance, local websites such as PFnet, tutuvatu, TARD, lifhaus, Solomon Times, and numerous other students' blog sites run numerous insightful open forums on issues in Solomon Islands including the constitutional reform process and the option of a federal system of government for the country. Most of the contributors in these forums are tertiary students, academics and Solomon Islanders working for regional and international bodies outside of the country. These forums provide a wealth of Solomon Islander opinion on the reform process, and it would be of great assistance to the process if attention is paid to these forums.

324 www.sicr.gov.sb
325 People Fastaem Network — a UNDP initiative that brings the internet network closer to people in the rural areas, giving them access to email and information.
326 Website created by Guadalcanal intellectuals to discuss issues relating to Guadalcanal and Solomon Islands as a whole.
327 Tobaita Authority for Research Development – A student oriented association that also runs a blog site for discussion of issues relating to Tobaita interest and Solomon Islands.
328 Local social networking web pages run by Solomon Islands with active open forums.
329 Local online newspaper outlet that also coordinates an active open discussion forum on issues of importance to Solomon Islands.
330 For example, Avaiki student webpage, Central Malaita Students Association (CMSA) blog site, Solomon Islands Medical Students Association (SMSA) blog site.
Also, the CRU, as the body that oversees the final stages of the process, should seriously consider engaging in these forums to solicit the views of Solomon Islanders as part of the consultation process. Information should be distributed to these web or blog sites letting them know about the involvement of the CRU in their respective discussion forums. A dedicated person or team should be given the task of monitoring the web sites or blogs to engage in the forums by way of giving information or taking note of the views raised in these discussion forums.

8.2.5 Re-assessment of Solomon Islanders’ attitude and approach towards whatever system of government is in place

A major reservation to the workability of the federal/state government system in Solomon Islands once it is adopted by country is the change it set out to achieve as compared to the unitary system of government. During the consultation process Solomon Islanders called for a change in the system of government, a change that will give the majority of Solomon Islanders greater access to development and important services. A number of commentators argued in support of the unitary system of government by saying that the system is workable, but without the proper attitude and approach from state leaders and governments the much needed benefits failed to filter to the rural communities.331 The question is what change would the proposed new political system of government have if the attitude and approach taken by national leaders and governments remain the same? In an opinion written by John Roughan on political leadership in Solomon Islands he suggest that a change in political system may not achieve the proposed outcomes if the leaders maintained the same attitude and approach to leadership and issues in Solomon Islands.332

332 ibid.
This paper recommends a re-assessment of the attitude and approach of Solomon Islands’ leaders to issues of governance and development. If the proposed federal/state government system is to work in the country there needs to be a wider consultation on a wide range of issues including the environment, understanding of the traditional land tenure, management of resources, issues of climate change, education and health. Some leaders in Solomon Islands, lacking an understanding of some of these issues, often made uninformed decisions. A classic example is decision made by the Solomon Islands Government supporting Japan’s whaling activities. A lot of commentators on this issue of whaling had bluntly pointed that the decision was basically made in exchange for financial support from Japan. Some observers were of the view that the constitutional process and reforms to the system of government is just another ploy by politicians to keep their cronies and political affiliates in the political loop. In other words, federalism provides an ideal opportunity for former politicians to maintain their expensive life styles and remain in power under the façade of the different states.

Though federalism looks promising in theory, in reality it may not provide the adequate services if the same leadership style and approach are maintained. There needs to be a new approach to leadership to show the country’s commitment to achieving what the old system of government failed to achieve in the past thirty or so years.

8.2.6 A National Senate

There is evidence from the various consultations that people were concerned about the rights of members of the federal parliament to vote on national issues. It is

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argued that with the proposed single federal parliament system the provinces with more members in the federal parliament will have more say in national issues compared to smaller states.

To solve this problem this paper suggests that the constitutional congress consider the introduction of a bicameral legislature or a House of Representatives and an upper house such as a Senate. As in any bicameral system, the House of Representatives is representative of the population and larger provinces or states will have more representatives in the Federal Parliament. However, a Senate is created to counter any abuse of power the House of Representatives may endure as a result of its unequal representation. In the Senate or lower house every state will have equal representation irrespective of its size or population. It is envisioned that a bill shall only become law once passed or approved by both houses.

The idea of a second chamber has been raised in past consultations without further discussion on it by the Parliament. During the 1987 Constitutional Review, Sir Fred Osifelo did raise in his submission the establishment of a second chamber, again for the same reasons mentioned above. Furthermore, the Senate would ensure that the legislative rights of the smaller states are protected from abuse by larger and more represented states. The Senate should also be empowered by the Federal Constitution to reject legislation passed in the House of Representatives. This arrangement ensures that the rights to vote on legislative matters are equally voted on by all the different groups including the minority groups.

8.3 Conclusion

The success of the draft federal constitution is dependent on the participation of Solomon Islanders in the process. The proposed linkage between the rural villages and the national leadership hierarchy is important in realizing the importance of ordinary Solomon Islanders in decision making.

Furthermore, it is important that Solomon Islanders are aware of the purposes of the constitution making exercise. This is a key factor in enticing the support and backing of all Solomon Islanders. The current constitutional reform exercise is not a forum to determine whether Solomon Islands should adopt a federal system of government; rather, it is intended to design and draft a draft federal constitution.

Also we see the need for an expanded consultation process, especially in the latter stages of the constitutional reform process. Likewise, the point about a national senate should be seriously looked at by those involved in the constitutional reform. Its importance cannot be overlooked.

The next chapter provides a general conclusion to the research paper. It will revisit the questions this research set out to answer.
CHAPTER 9: CONCLUSION

9.1 Introduction

This chapter revisits the question of whether the views of the majority of Solomon Islanders are taken note of leading up to the first draft federal constitution. And if so, does this form a manifest reflection of the views of Solomon Islanders during the consultation processes or do the public consultations reflect ‘genuine public participation.’ As noted by Le Roy in her PhD thesis (Draft) all the phases of participatory constitution making processes require certain core elements, which include a distinct phase of raising public awareness, followed by extended opportunities for people to express their views and preferences, followed by a deliberative drafting process that is open and representative, taking into account the views of the public. These are the three basic elements of a participatory constitutional making process. Again, the key question is how much of this participatory constitutional making process is adhered to in the Solomon Islands constitutional reform process.

9.2 Discussion

The author embarked on the research with the perception that the constitutional reform process lacked consultation and the mandate of the people. This was changed the moment the author entered the Constitutional Reform Unit office and saw the extent of consultation carried out through decades of consultation.

Looking back, one can conclude that Solomon Islands’ leaders at the date of independence had played their part in choosing a system of government for the new independent country. The system of government has served the country for at least
thirty (30) years; nevertheless, the majority of Solomon Islanders were still unsatisfied with the level of development.\(^{336}\) It is time that the next generation of Solomon Islands’ leaders considers a system that better reflects the diverse heritage and cultures of Solomon Islanders, an opportunity the independence leaders were not afforded. It is understandable that the unitary or centralised system of government does not reflect well the diverse cultures and scattered-ness of Solomon Islands. It is time Solomon Islanders must take the challenge to come up with a system of government that is conducive and responsive to the needs and aspirations of Solomon Islanders.

It is evident from all the consultations and surveys carried out ever since independence that Solomon Islanders want a decentralised system that would reflect the uniqueness of the country. The closest to a best system of government for the country is the federal/state government system – and it is the system Solomon Islanders want to see implemented. As in any proposed change of system, there will always be those who will oppose the changed for fear of disrupting the present status quo. Therefore they may oppose the proposed change by whatever means available, including scare tactics such as spreading fear that federalism would lead to ‘disintegration’ of Solomon Islands or its ‘expensiveness’ to operate.

There needs to be more participation in the making of the draft until a final copy can be agreed upon. So far, the draft federal constitution only encapsulates the desire of Solomon Islanders for a change in the system of government. However, the detail of this anticipated change is still entangled in the legalistic writing of the draft federal constitution. A peek at the 2004 draft federal constitution will reflect these anomalies. This is reflected in the Western Province’s rejection of the 2004 draft of

the federal constitution. The Western Province viewed the 2004 draft federal constitution as:

... a reluctant, condescending, fear-full document, as well as pro status quo at heart.\textsuperscript{337}

What the leaders of Western Province saw in the 2004 draft federal constitution is just a continuation of the central government system or a failure on its part to depart from the spirit and letter of the 1978 Independence Constitution.\textsuperscript{338} It is reluctant because in certain sections it wants to give powers and functions to states, but then it hesitates and provides other controlling provisions. Furthermore, the 2004 draft federal constitution is seen as condescending because it still views the prospective states as ‘agents’ and ‘subordinates’ of the federal government.\textsuperscript{339} Also, the paper argued that it is fear-full because the draft federal constitution seems to take on the belief that all states would not be able to take on major responsibilities and that any of them could cause instability if given too much power. All these can be discerned from a number of provisions, including the provisions on state and federal powers, concurrent powers, revenue sharing, security, boundary, and also the formulation of state constitutions.

I feel that the paper has adequately dealt with all the questions the research set out to find answers to. I agree that the consultations, surveys and reviews do in fact reflect the views and perspective of the majority of Solomon Islanders since independence. These views, perspectives and contributions play a major role in the final make-up or content of the draft federal constitution. Similarly, government appointed committees such as the State Government Task Force and the Congress

\textsuperscript{338} ibid.
\textsuperscript{339} ibid.
Members and Eminent Persons have the full support of the communities they represented. Though more members could have boosted these committees, the purpose and the processes these committees were involved in gave them the support and mandate needed to proceed with their roles.

Also it can be pointed out here that research has shown that the national government and foreign stakeholders did make various attempts to destabilise the constitutional reform process. For instance, foreign aid donors withdrew from supporting the process in 2004, citing the expensive implications of the federal government system if implemented. Similarly, various governments tried to influence the process by attempting to speed up the process for unknown political agendas.

Nevertheless, all these do not prevent Solomon Islanders from participating freely and openly in the Constitutional reform process.

9.3 Conclusion

This chapter brings to an end another segment to a long constitutional reform process in Solomon Islands. One cannot determine when the final draft of the federal constitution will be ready. Experience has shown that numerous dates had been set and by-passed over the years. This is the norm for the constitutional reform process in Solomon Islands. Last, I can recall, the date for the final draft was set for December 2009; it has since been postponed to another later date on 2010.

Nevertheless, this should not be seen as a setback to the constitutional reform process. Rather it should be viewed as another step towards the maturity of the reform process in Solomon Islands. With every postponed deadline, comes another
year of planning and working. Also, more research will be carried out by researchers, highlighting the different stages of this process. This by itself is evidence of the participation of Solomon Islanders in the constitutional reform process.
## APPENDIX I

### SOLOMON ISLANDS CONSTITUTIONAL REFORM PROCESS TIME LINE

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PRE-INDEPENDENCE</strong></td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td>Special Committee to the Provincial Government System Consultation (Kausimae Report, 1977)</td>
</tr>
</tbody>
</table>

| **POST - INDEPENDENCE**                    |                                                                        |
| 1978    | 7th July – Solomon Islands gained independence from Britain            |
|         | Independence Celebrations were boycotted by Western Province led by the Western Province Breakaway Movement |
| 1986    | Committee to Review the Provincial Government System (Lulei Report, 1986) |
| 1988    | Guadalcanal demands and petition were brought to the government’s attention |
| 1999    | Committee to Review the Provincial Government System (Tozaka Report, 1999) |
| 1998-2000 | Ethnic Crises – IFM/GRA established                                    |
| 1999    | Honiara Peace Accord / Memorandum of Understanding between Solomon Islands Government and Guadalcanal Provincial Government / Marau Communiqué / Panatina Agreement |
|         | MEF established                                                       |

<p>| <strong>POST - 2000</strong>                           |                                                                        |
| 2000    | Auki Communiqué / Buala Peace Communiqué / Townsville Peace Agreement (TPA) |
|         | Buala Premiers Conference                                             |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>State Government Task Force Report</td>
</tr>
<tr>
<td>2002</td>
<td>Marau Peace Agreement</td>
</tr>
<tr>
<td>2003</td>
<td>UNDP 1st national Consultation</td>
</tr>
<tr>
<td>2004</td>
<td>9 November – Sir Allan Kemakeza (Prime Minister) launched the first Draft Federal Constitution for Solomon Islands</td>
</tr>
</tbody>
</table>

**PERIOD AFTER THE LAUNCHING OF THE FIRST DRAFT OF THE FEDERAL CONSTITUTION**

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>Members of Parliament Consultation on the first DFC</td>
</tr>
<tr>
<td>2006</td>
<td>28 June – Opposition Spokesman Clement Kengava accused the government (GCC) of complacency in pushing forward the state government agenda</td>
</tr>
<tr>
<td></td>
<td>8 August – Government (GCC) responded to criticisms by setting January 2007 as the date of completion of the final draft of the federal constitution</td>
</tr>
<tr>
<td></td>
<td>5th October – Governor General (Waena) in a speech delivered at Parliament indicated that the government is finalizing the federal system of government</td>
</tr>
<tr>
<td>2007</td>
<td>13th June – PM Sogavare launched the Constitutional Congress</td>
</tr>
<tr>
<td></td>
<td>27th July – Names of the members of the Constitutional Congress and EPAC were released to the public</td>
</tr>
<tr>
<td></td>
<td>4th August – Premier of Western Province submitted the province’s summary document on State Government</td>
</tr>
<tr>
<td></td>
<td>5th August – Sogavare announced the dates for the first meeting of the CC and EPAC. Also October 2008 was set as the deadline for the Draft Federal Constitution to be submitted to the Cabinet in preparation for Parliament</td>
</tr>
<tr>
<td></td>
<td>21st August – Sogavare welcomed the CC and EPAC members to the week-long induction meeting in Honiara</td>
</tr>
<tr>
<td></td>
<td>1st October – CC held its second meeting by looking at specific sections of the DFC</td>
</tr>
<tr>
<td></td>
<td>15th October – Constitutional Review Congress Closed</td>
</tr>
<tr>
<td></td>
<td>September – Provincial Premiers Meeting (Lake Tegnano). In the communiqué all premiers supported the federal</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>14th Nov</td>
<td>PS John TuhaiKa presented a paper at the PIMOP consultation (on the Pacific Plan and Human Rights) in Auckland indicating the intention to adopt all economic and cultural rights of Solomon Islands in the DFC</td>
</tr>
<tr>
<td>10th Dec</td>
<td>Hon Japhet Waipora reiterated government’s commitment to the constitutional reform process during the Western Province Second appointed day in Gizo</td>
</tr>
<tr>
<td>2008</td>
<td></td>
</tr>
<tr>
<td>1st Apr</td>
<td>PM Sikua announced the deadline for the DFC to be in July 2009, revoking the previous deadline set by the Sogavare Government</td>
</tr>
<tr>
<td>7th Apr</td>
<td>CC &amp; EPAC set up 7 strategic themes with 7 theme committees to look at each theme</td>
</tr>
<tr>
<td>9th May</td>
<td>CRU launched its media campaign on the constitutional reforms in the country, encouraging all Solomon Islanders to contribute to the process</td>
</tr>
<tr>
<td>10th Jun</td>
<td>Sikua reiterated the government’s commitment to introduce the final DFC in a visit to Isabel Province</td>
</tr>
<tr>
<td>11th Jul</td>
<td>CC &amp; EPAC executives met in Honiara over immediate issues over the reform process</td>
</tr>
<tr>
<td>14th Jul</td>
<td>Western Province criticized the government for trying to get the province to endorse the DFC which it had earlier rejected</td>
</tr>
<tr>
<td>15th Jul</td>
<td>the 7 themes Committees of the Congress deferred their meetings over financial issues</td>
</tr>
<tr>
<td>30th Jul</td>
<td>National Parliament’s Standing Committee on Constitutional Review announced the committees commencement of inquiries into the DFC (Chaired by Tozaka, MP)</td>
</tr>
<tr>
<td>21st Aug</td>
<td>Sikua held discussions with Secretary General of the Commonwealth Secretariat over the possibility of providing a Constitutional Lawyer to support the reform process</td>
</tr>
<tr>
<td>1st – 5th Sep</td>
<td>Women Groups held consultation to look at the DFC (Organized by Ministry of Women, Youths and Children Affairs)</td>
</tr>
<tr>
<td>7th Sep</td>
<td>Women stakeholders were pleased with the DFC provisions relating to women and children</td>
</tr>
<tr>
<td>15th Sep</td>
<td>Premiers Meeting (Lata)</td>
</tr>
<tr>
<td>17th Sep</td>
<td>Opposition accused the PM of misleading Premiers over the Provincial Government System</td>
</tr>
<tr>
<td>23rd Sep</td>
<td>Public hearing held at the National Parliament for submissions and presentations on the DFC. A number of people presented their views including Premiers, the Mayor of Honiara and the Speaker of Parliament</td>
</tr>
<tr>
<td>24th Sep</td>
<td>Malaita Province called on the government to delay the Federal System of Government, and</td>
</tr>
</tbody>
</table>
instead concentrate of Economic development issues first. Other 9 Premiers called on the government to grant provinces statehood

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>29th September - 9th October</td>
<td>Public Finance and Revenue Sharing Theme Committee held the series of meetings</td>
</tr>
<tr>
<td>5th December</td>
<td>Western and Guadalcanal Provincial Premiers renewed their call for faster work on the review process</td>
</tr>
<tr>
<td>2009</td>
<td></td>
</tr>
<tr>
<td>18th February</td>
<td>Fred Rohorua was appointed the new PS for the Constitutional Review Unit replacing the long serving PS John Tuhaika</td>
</tr>
<tr>
<td>26th March</td>
<td>Public Finance and Revenue Sharing, Federal Political Systems and Powers, and the Federal Foundations theme Committees resumed their theme meetings in Honiara</td>
</tr>
<tr>
<td>2 May</td>
<td>Constitutional lawyer Reginald Teutao hopes to complete the final DFC draft by November</td>
</tr>
<tr>
<td>4th May</td>
<td>The first Joint Plenary Meeting commenced in Honiara</td>
</tr>
<tr>
<td>29th June</td>
<td>Private Lawyer Andrew Nori defended the Provincial Government System on the national radio</td>
</tr>
<tr>
<td>30th June</td>
<td>the two month long Joint Plenary Meeting of the CC &amp; EPAC members was finally completed</td>
</tr>
<tr>
<td>11th August</td>
<td>The first 2009 DFC was released for public review</td>
</tr>
</tbody>
</table>

**PERIOD AFTER THE FIRST 2009 DRAFT OF THE FEDERAL CONSTITUTION**

CC provincial consultations

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>12th August</td>
<td>PM Sikua adjusted the deadline for the final draft to April 2010</td>
</tr>
</tbody>
</table>
APPENDIX II

Constitutional Reform Process Questionnaire

Purpose of Questionnaire: The purpose of this questionnaire is to see how far the general public is involved in the constitutional reform process, especially towards the Draft Federal Constitution in Solomon Islands.

Purpose of Research: The research is conducted as part of the researcher's Masters in Governance research work. A final paper will be written based on the findings of this research and will be submitted to the Governance Program at USP as part of the researcher's effort towards a Masters Degree in Governance.

A: Information

1. What is your name?

2. What Province are you from?

B: General Questions

3. Are you aware of the Constitution Reform Process currently taking place in the country? YES / NO

4. If yes, are you part of the Constitutional Reform Process? YES / NO

5. If yes, what part do you play in the Constitutional Reform Process?

C: Specific Questions – (For members of the Constitutional Congress)

6. Who nominated or appointed you to the Constitutional Reform Congress?

7. Could you identify which section of the general public were you nominated or appointed to represent?

8. By virtue of that appointment, can you say that your appointment is mandated by the general public whom you represent? Explain
9. How many consultations have been carried out in your areas since the creation of the congress?

10. Who carried out those consultations?

11. Who do you invite to these consultations?

12. How do you conduct the consultations in the communities?

13. Are you satisfied with the outcome of these consultations?

14. Are there certain individuals/members or groups in the community that were not represented during those consultations? YES/NO

15. If YES, could you name or identify those individuals or groups and list the reasons why the failed to attend those consultations?

16. Did the communities that you consulted support the Draft Federal Constitution and the move towards the state government system?
17. Do you think the views shared by those who attended those consultations reflect the views of the majority of members in the communities?

18. Do you think the Constitutional Congress held in Honiara provide an equal opportunity for the congress members to share the views of their communities? YES / NO

19. If NO, why?

20. What is your general view of the make up of the Congress, does it provide an equal representative of the country or were there certain communities not represented at the Congress? YES / NO

21. If NO, what communities or interest groups were absent?

22. Are you satisfied with the progress of the Constitutional Congress so far? YES / NO

23. If your answer to the above question is NO, then list your reasons:

24. Do you think the time-frame given by the Government to submit the Draft Federal Constitution before Parliament is adequate? YES / NO

25. Give your reasons for your answer to the above question:

Page 3 of 4
26. So far, Do you think the First Draft of the Draft Federal Constitution for 2009 reflect the views of the majority of Solomon Islanders? YES / NO

27. Explain you answer for 26 above:

Thank you very much for taking part in this survey.

You can email this answered form to the address mae.p@vanuatu.usp.ac.fj or fax your answers to Paul Mae to the fax number (00)(679) 22633.
APPENDIX III

Map of Solomon Islands
APPENDIX IV

BACKGROUND PAPER NO.7
CONSTITUTIONAL REVIEW COMMITTEE
WORKING QUESTIONNAIRES

Preamble

1. Are the general principles contained in the preamble still applicable in the context of Solomon Islands today, e.g.:  
   democracy
   equality
   social justice
   equitable distribution of income
   communal solidarity
   promotion of cultural traditions; and
   decentralisation?

CHAPTER 1
THE STATE AND THE CONSTITUTION

1. Should the Head of State be the Queen of England or a locally installed President?
2. If the Head of State is local, should he be an Executive or Ceremonial President?
3. Should the Constitution be the Supreme law or should it be equal with other laws?

CHAPTER 2
FREEDOM AND FUNDAMENTAL RIGHTS AND FREEDOM OF THE INDIVIDUALS

1. Should the Constitution protect individual rights or community rights?

2. Are the following fundamental rights still applicable and relevant in Solomon Islands today:

   (a) right to life
   (b) right to personal liberty
   (c) freedom from slavery and forced labour
   (d) freedom from deprivation of property
   (e) freedom of privacy of home and other private property
   (f) right to protection of the law
   (g) freedom of conscience
   (h) freedom of movement
   (i) freedom from discrimination
   (j) freedom of expression
   (k) freedom of association

3. Should some other rights be added to these?
CHAPTER 3
CITIZENSHIP

1. Should Solomon Islands continue to accept foreigners as citizens of Solomon Islands?

2. Should a naturalised citizen be deported if he commits an offence or behaves in a manner offensive to the Solomon Islands community?

3. Should foreign male or female marrying Solomon Islands citizen be treated equally or not?

4. Should a Solomon Islander who becomes a citizen of another country maintain property rights in Solomon Islands?

CHAPTER 4
THE GOVERNOR GENERAL

1. In the context of Chapter I, should the Head of State be elected or appointed?

2. Should his election be through universal suffrage or through electoral colleges?

3. What should be his term of office?

4. How should he be removed?

5. What powers should he have?

6. Should there be an age limit for candidates contesting for Head of State, and

7. Should he have power to dissolve Parliament in appropriate circumstances?

CHAPTER 5
THE EXECUTIVE

1. In whom should the executive authority of Solomon Islands be vested - the Head of State or a different body?

2. Should we maintain the present post of Prime Minister and Ministers?

3. Should the Prime Minister be elected by Parliament or by universal suffrage?

4. How should the Prime Minister be removed?

5. Is the concept of ‘Vote of No Confidence’ appropriate to Solomon Islands?

6. What should be the powers of Ministers in the administration of Government departments?

7. Should the political Government i.e. Prime Minister and Ministers have the power in the posting of public officers?

8. Should the post of Permanent Secretaries be made political or not?

9. Is there a need for the Public Service Commission?

10. Is there a need for the Judicial and Legal Services Commission?

11. Is there a need for the Police and Prison Services Commission?

12. Is there a need for the Teaching Service Commission?

13. Should Government Ministers be appointed from Parliament or from outside?
CHAPTER 6
THE NATIONAL LEGISLATURE

1. Should there be one two Chamber Parliament? ..........................................
2. If yes, what should be their respective powers? ......................................
3. How should election to Parliament be conducted? ..................................
4. Are the present number of constituencies adequate? ..............................
5. Should there be a higher age qualification for membership of Parliament? ..
6. Should members of Parliament be recalled by their voters in mid-term if not performing to their liking? ..........................................................
7. Should political parties exist in the National Parliament? ..........................
8. What should happen when a member of a party crosses the floor in Parliament?
9. Should we retain the office of the Opposition and Independent Group? .......
   If so should they be remunerated? ..............................................................
10. Should there be prescribed number for the Opposition and Independent Group?
11. Who should be the Speaker of Parliament and how should he be elected? ..
12. What should be the grounds for removal of Speaker of Parliament and how should he be removed? .................................................................

CHAPTER 7
THE LEGAL SYSTEM

1. Should some laws of UK be still applicable in Solomon Islands? ..............
2. Is there a need for a Law Reform Commission and what should be its powers and functions? .................................................................
3. Is the present Court System applicable and appropriate to Solomon Islands, The Local Court, Magistrates Court, the High Court and Court of Appeal? ............................................................
4. Is there a need for Juries and Assessors in our Court System? .................
5. What are your views on the post of the Director or Public Prosecutions?
   (who administers the criminal laws of Solomon Islands) .........................
   The Public Solicitor (who provides legal services to people breaking the laws of Solomon Islands) ..........................................................

CHAPTER 8
LEADERSHIP CODE

1. Should certain leaders in our country be subject to a separate set of rules or laws in the performance of their public duties and responsibilities? ........................
2. If they breach any such laws and rules, how should they be punished? .......

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CHAPTER 9
THE OMBUDSMAN

1. How important and relevant is the post of the Ombudsman? ..........................................

2. In the light of performance so far, is there a need for that post to be given further powers? ..........................................

CHAPTER 10

1. Should the power to appropriate funds out of the Consolidated Fund be vested in the Parliament or purely in the Executive? ..........................................

2. What powers should the Minister of Finance have in the day-to-day administration and management of Funds? ..........................................

CHAPTER 11
LAND

1. Should the Government (Commissioner of Land) hold perpetual title to land in Solomon Islands? ..........................................

2. Should there be national law to govern the use of customary land or should it be devolved to Provinces or further down? ..........................................

3. How should customary land be acquired for public use? ..........................................

4. Who should own minerals in Solomon Islands? ..........................................

CHAPTER 12
PROVINCIAL GOVERNMENT

(This is the subject of a different review).

CHAPTER 13
THE PUBLIC SERVICE

1. Should the Public Service Commission, the Judicial and Legal Service Commission and the Police, Prisons Service Commission and the Teaching Service Commission be unified? ..........................................

2. Should the power to appoint Permanent Secretaries, Ambassadors and other Senior Public Service Officers be vested in the Public Service and other Commissions or should it be vested in the Prime Minister? ..........................................

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CHAPTER 14
GENERAL

1. Are you happy with the National Seal, the National Flag and National Anthem of Solomon Islands?

2. How should the National Constitution be amended or reviewed?

3. Should the National Constitution be written in language other than legal language?

4. Is the present Unitary State suitable to Solomon Islands?

5. What are your views on the Federal System of Government?
LIST OF CONSTITUTIONAL CONGRESS MEMBERS & EMINENT PERSONS ADVISORY COUNCIL (EPAC) MEMBERS

In representation order

CENTRAL PROVINCE
Nose, Hilda
Saemane, George (Team leader)

GUADALCANAL PROVINCE
Kari, Hilda
Tagaraiana, Chris
Tovua, Paul (Team leader)

ISABEL PROVINCE
Tozaka, Jane
Lulei, Dennis Carlos (Team leader)

MALAITA PROVINCE
Pollard, Dr. Alice
Gerea, Fr. John
Kwalea, Hudson G. (Team leader)

MAKIRA/ULAWA PROVINCE
Rebitai, Clara
Faga, Jack

TEMOTU PROVINCE
Lapli, Sir John Ini (Team leader and also Chairman Congress)
Lemoba, Roselyn

RENNELL BELLONA PROVINCE
Abiah, Joy (Team leader)

WESTERN PROVINCE
Paia, Warren (Team leader)
Piasi, Jackson
Loe, Pat R.

CHOISEUL PROVINCE
Malasa, Viola
Vazarabatu, Simmy (Team leader)

HONIARA CITY
Adifika, Catherine
Huta, Joseph (Team leader)

CONGRESS NATIONAL NOMINEES
Baeanisia, Abraham (NGO Representative)
Fangalasu, Judith (Church Representative)
Fate, Phylisca (Youth Representative)
Levo, Charles
Naezon, Walton
Puia, Alice
Pule, Catherine (Girl Guides Association)
Sandakabatu, Connelly (Education)
Tuhaika, Jenny (Women Representative)
Walter, Harry Alick (Youth Representative)
Wickham, Ashley

EPAC MEMBERS
Lepping, Sir George (Chairman EPAC)
Pitakaka, Sir Moses P.
Kenilorea, Sir Peter
Devesi, Sir Baddley
Behulu, Josephine
Gauwane, Collin
Ho'ota, Daniel
Jerry, Sabino
Manuhea, Henry
Munamua, Rev. Lazarus
Phillip, Danny
Quan, Matthew
Rojumana, Clement
Roughan, Dr. John
Samasoni, Tapualiki
Tion, Vainga T.
Tongarutu, Nuatali A.
Tropa, Ataban
Tuhanuku, Joses
Vaukei, James
APPENDIX VI

Lenora Hamilton

Interview made with Lenora Hamilton, Head of the Western Province Team for the UNDP Consultations in March and July 2003.

Date: 26th July 2009
Venue: PacLii office, University of the South Pacific, Vanuatu.

Questions asked by Paul

1. What was your job description in Solomon Islands?
   I was a legal advisor with the Ministry of Provincial Government prior to 2003. In 2003 I joined the RAMSI legal group as a legal advisor with the public solicitors office.

2. How did you get involved in the UNDP survey?
   We applied for the post of team leaders. Having worked in the Western Province for a while, I was selected as the team leader for the western province team during the SIG/UNDP surveys in 2003.

3. What is your role as team leader?
   My role as team leader is to coordinate my team’s survey in the province. I ensure that team members reach the targeted communities and provide quality reports.

4. How many people were in your team for the Western Province?
   Our team for the Western Province consisted of 4 people.

5. What standing does members of your team have in the communities?
   The members of my team were people with high regard in the Western Province, for example, people like Jackson Piasi, a lawyer and former member of Parliament.

6. Does your team have enough training before the survey?
   Yes, we all attended the trainings coordinated by the UNDP team before we dispersed for the survey.

7. What do you think of the timing and duration of the surveys?
   I personally think the timing is ok, however, we could reached some more remote communities if it was extended for 2 or 3 months.
8. What is the extent of your team’s survey in the western province? We’ve reached out to most of the communities in the West, however, due to time limitations; we were not able to reach the remote parts of the province.

9. What was the mode of communication used during the survey? The more of communication was pidgin and the local dialects.

10. Do people understand the purpose of the survey? Yes

11. Do people have a choice to decide on whether they want federalism or remain with the current unitary system? That was not the focus of the survey.

12. What is your opinion of the survey, does it convey the majority view of people in the Western Province? It does

13. Some researchers hard argued that the call for federalism was just a tactic used by those who are in power to ensure they and their cronies remained in power, do you agree with that view? To some extent I agree with that, but the underlying factor is that federalism is long overdue in Solomon Islands.
APPENDIX VII

A BIEF REPORT ON THE CONSULTATIONS AND CONFERENCE CARRIED OUT BY THE MEMBERS OF NATIONAL PARLIAMENT FO AOEK LANGA LANGA CONSTITUENCY DURING THE MONTHS OF JANUARY AND MARACH 2005

During the months of January and March 2005, twenty five meetings were held in which 39 villages and the Auki Town Ward. Conferences were held at two days each. There has been two wards in the constituency, wards 1 and 30.

In all 25 days of consultations and 4 days of wards dialogue in the form of conferences.

In the consultations and dialogues beside the MP, ten resource persons were engaged. These resource persons assist the MP in the consultation and dialogues. The draft federal Constitution were thoroughly explained to the participants and these who attended the consultations.

At all the consultation meetings and the dialogues it was resolved that the draft federal constitution be set aside, while, first the government to address the pressing issues of restoring law and order and economic recovery, reform and development. Political development is not the pressing issue at present rather it is the economy and its ownership and control that is the issue at stake.

If the current government wish to proceed with federal draft constitution the political parties that are in the government should take the issue to the forthcoming election to have it mandated by the populace whether for or against. This should be the most democratic way to determine the issue once and for all, rather than politicizing it.

If the People’s Alliance Party and its coalition partners the Association of Independent Members (AIM) win the absolute majority the coming election. Then it obvious that the populace wish the county to adopt the Federal System of government. If however the contrary is true, then the proposed draft federal constitution should be set aside and a relook at the current system of provincial government be taken.

A change of a system of governance is a matter of the populace to determine and not a matter for few politicians to decide. This is the supreme law of the land upon which all other organic laws rest and originate. It is therefore fitting and proper that the populace determine the matter and not otherwise.

This is the overall determination of Aoke Langalanga Constituency position is as far the draft federal constitution is concern.

Signed:.......................................................... Signed:.........................
Hon Bartholomew Ulufa’alu
Dear Sir,

RE: **BRIEF REPORT OF MY CONSTITUENCY TOUR ON AWARENESS OF THE FEDERAL CONSTITUTION AND RETIREMENT OF IMPREST FOR THE TOUR**

Please find enclosed herewith a copy of the Report on my brief visit to my Constituency earlier this month.

Grateful you take note of some of the important issues raised during my public meetings which needs considerations during the final process of your draft Federal Constitution. These are indeed the views of my people which constitute over 20,000 people of Central Kwara'ae Constituency.

Also find under separate cover the cost breakdown of the tour to rural villages as some of the people are illiterate, I have to write out their receipts for them. Also these villages normally do not have available receipt books as they are in the rural villages.

Finally, I wish to thank you most sincerely for providing funds to allow me to visit my Constituency and hold public meetings as awareness programmes on the new Federal Constitution. Indeed it was an eye opener for my good people of Central Kwara'ae.

Thank you once again for your understanding and continued support.

Yours sincerely,

[Signature]

Hon. Fred Fono M.P
Deputy Speaker of Parliament &
Member for Central Kwara'ae Constituency

encl:
BRIEF REPORT ON THE CONSTITUENCY TOUR PROGRAMME FOR AWARENESS ON THE FEDERAL CONSTITUTION DRAFT BILL 2004
BY HON. FRED FONO M.P CENTRAK KWARA'AE CONSTITUENCY

1. **Introduction**

All Members of the National Parliament were mandated by the Government to make visits to their Constituencies to conduct awareness programmes and consult with their people on the draft Federal Constitution before it is finalise for tabling in Parliament.

At the end of the National Parliament Meeting in mid December 2004, all Members of Parliament attended a one day workshop or seminar on the proposed Federal Constitution.

The national Government also provided some financial support totaling SBD$20,000 to each Member of Parliament to enable them to conduct these visits/tours to their Constituencies.

2. **Tour Programme for Hon. Fred Fono M.P**

The Hon. Fred Fono M.P and his tour party held public forums or meetings at the following dates and times:-

**Friday 7th January 2005**
- Kilu'ufi Hospital compound at 4 pm in the afternoon.

**Saturday 8th January 2005**
- Gwaifai Village/Polling Station at 10 am.
- Maoro School at 4 pm in the afternoon.

**Sunday 9th January 2005**
- Public meeting at Kilusakwalo Village at 3 pm – 6:30 pm

**Monday 10th January 2005**
- 10 am – 2 pm – Ura Village
- 4:30 pm – 7:30 pm – Radefasu Village

**Tuesday 11th January 2005**
- 10 am – 2 pm – Abukwau Village
- 7 pm – 11 pm – Arabala Village

**Wednesday 12th January 2005**
- 10 am – 2 pm – Busufou'osae School
- 3 pm – 6 pm – Carlifornia Village

**Thursday 13th January 2005**
- 10 am – 2 pm – Busurata School
- 3 pm – 6 pm – Aisanlinga School
- 7 pm – 11 pm – Ngadaifiu Village

**Friday 14th January 2005**
- 10 am – Fiu/Kelakwai Village

3. **Observations from these Meetings**

The public meetings which I held at the main centres in the Constituency were well attended by the public. From estimates, some gatherings have attracted well over two thousand people at these public meetings. People were interested to learn
about what the new Federal Constitution is all about. Since it was the first time for any public meeting to talk about the country's Constitution, a good number of people were really interested in knowing more about the Federal Constitution. What are the difference in this new Federal Constitution and the current Solomon Islands national Constitution.

The level of understanding amongst our rural people were not at the same level, therefore I had to take some time at least four – five hours just to explain the various provisions in the new Federal Constitution that is different from the current Constitution. The people at these public meetings raised a lot of questions which were answered to their satisfaction. People also expressed their appreciation and gratitude towards me as their national leader for finding time to tour the Constituency and get the people's view on the proposed State Government system and the new Federal Constitution.

4. Concerns raised at these Public Meetings with recommendations for changes

I will briefly state some of the concern raised at my public meetings in relations to the provisions of the new Federal Constitution.

(i) The Central Kwara'ae people fully supported the move to localize our national Constitution as home grown one.

(ii) The Central Kwara'ae people also supported the idea of turning Solomon Islands into a Republic as highlighted in the new Federal Constitution.

(iii) The people also supported the protection of fundamental rights of individuals, groups, tribes and customary landowners and resources owners' rights.

(iv) The Central Kwara'ae people do not want or accept the provisions allowing dual citizenship for foreigners and Solomon Islanders. There is fear that once dual citizenship is allowed, foreigners might remit their money earned in our country to their second country of their citizenship.

(v) The Central Kwara'ae people would like to see that the President is voted into Office by popular vote, i.e. every Solomon Islander as citizens should cast their vote for the President at a particular day declared for voting of the President and not just the members of the Federal Parliament and Congress of States (Head of State Governments). Voting of the President should be by every Solomon Islander exercising their democratic right to choose the President.

(vi) The people of Central Kwara'ae do not agree with provisions in the new Constitution to appoint Members of Parliament with no voting rights, instead they are calling on the Government to increase the number of Constituencies under the new Federal Constitution. They claim Central Kwara'ae with a total population of over 20,000 people should have at least 3 different Constituencies with 3 different elected representatives, to be compatible with other Constituencies.

(vii) The people of Central Kwara'ae had raised a big concern on the influx of Asians as businessmen in the country. They want tighter laws and
regulations to screen foreigners especially Chinese and Asians into Solomon Islands. The Immigration and Labour laws need to be revised and strengthened to have tighter controls.

(viii) The Central Kwara'ae people would like to see a new definition in the Federal Constitution for the word Solomon Islander. There should be two words - Indigenous Solomon Islander and Naturalize Solomon Islander.

Reserved business areas for indigenous Solomon Islander should not be taken over by naturalize Solomon Islanders. Unless this new definitions in place, Solomon Islands is similar experience in Fiji. The Foreign Investment Act needs to be reviewed to cater for these reserved areas of investment for indigenous Solomon Islanders.

(ix) The people of Central Kwara'ae would like to see the law that allows State (Government) to own any minerals found below 6 feet underground to be amended to allow customary ownership of all lands, sea and minerals underground except undersea boundaries beyond the 12 nautical miles of our islands which belongs to the State (Government).

(x) The people of Central Kwara'ae had noted with acceptance the provisions in the new Federal Constitution giving power for the voters to recall their Member of Parliament however, there must be clear guidelines and rules by which Members of Parliament will be measured against if they breach this guidelines and rules then they can be recalled i.e. the process of recall should be spelt out clearly.

(xi) The people of Central Kwara'ae has expressed the need for more consultations on this Federal Constitution as initial consultations did not cover Central Kwara'ae Constituency. They suggested in future, Government organise public meetings, forums or workshops in their respective centres and not just within Auki town.

5. Financial Budget (See separate submission)

6. Conclusion

The consultative meetings carried out at the various Polling Stations in the Central Kwara'ae Constituency were well attended by both women, men and even children. The people really appreciate and thank their Member of Parliament for visiting them and conducting this awareness programmes on the new Federal Constitution.

The opportunity was also used by the Member of Parliament Hon. Fred Pono to explain and answer questions relating to the C.K.C Congress and its programmes and projects implemented over the past years in the Constituency. A lot of questions and allegations were clarified to the people during those public forum meetings.

I wish to personally thank the Government through the Ministry of Provincial Government and Constituency Development for providing funds and enabling this series of meetings to be held within the Constituency.
APPENDIX IX

LIST III

CONCURRENT POWERS *(Most Provinces want this list deleted)*

*(Rennell Bellona, Central and Guadalcanal want concurrent powers)*
*(Temotu will negotiate for free association)*

Both levels of government may make laws relating to the following matters.

1. Governance
   (a) Public Service
   (b) Public holidays
   (c) Civil emergency
   (d) Commissions of inquiry

2. Justice
   (a) The administration of justice
   (b) Establishment of tribunals and quasi-judicial bodies

3. Provision of Service
   (a) Water supply, sanitation and sewage disposal
   (b) Electricity and power generation
   (c) Postal and telecommunications
   (d) Ports and harbours
   (e) Airports
   (f) Broadcasting
   (g) Fire services and fire prevention
(h) Public works

4. Education
   (a) Curriculum
   (b) Vocational and technical training
   (c) Scholarships
   (d) Archives and government records
   (e) Libraries and museums

5. Health
   (a) Public health
   (b) Medical and hospital services
   (c) Malaria and disease control

6. Land and Water
   (a) Land tenure and dealings
   (b) Land registration
   (c) Land Planning, use and development
   (d) Water and protection of water

7. Minerals and Petroleum
   (a) Prospecting and mining minerals
   (b) Exploration for and extraction of oil and gas

8. Agriculture, Fisheries and Forestry
   (a) Forest and forest resources
   (b) Agriculture, apiaries and livestock
   (c) Animal welfare
   (d) Fisheries, subject to chapter 12, Part II of the Constitution

9. Trade, Commerce and Industry
(a) Price control
(b) Consumer protection and fare trading
(c) Regulation of imports
(d) Insurance
(e) Alcohol and tobacco
(f) Regulation of trade practices
(g) State tourism

10. Social Security and Trade Organizations
    (a) Employment, welfare of labour and trade unions
    (b) Compensation and superannuation schemes
    (c) Employment benefits and pensions

11. Environment and Conservation
    (a) Environment protection and regulation
    (b) Conservation of natural resources and regulation of invasive species
    (c) Wild life protection and preservation of biological diversity
    (d) Genetic resources and genetically modified resources

12. Land Planning and Management
    (a) Land use planning and development
    (b) Regulation of building and construction
    (c) Preservation and protection of historical sites and cultural heritage
APPENDIX X

Baegu Asifola Constituency – Report on consultations on proposed Federal System of Government, Dr. Steve Aumanu, 2005

Summary:

Views:

- Whilst the governments intent to introduce the draft federal constitution of Solomon Islands as soon as practically possible the people of Baegu Asifola see no urgency in tabling the constitution in parliament this year. The 50 constituencies and the 9 provinces in the country need to prepare themselves and develop their socio-economic infrastructures to seriously address these structural weaknesses before any meaningful and sustainable transformation of governments can take place.

- The desire to introduce the draft federal constitution quickly should not be driven by sensations of the current social ethnic tensions. Our desires for constitutional reform must be properly measured against time factor, economic realities and rationales, so that the actions of parliament is not seen as reactionary but measured on grounds parallel to national objectives and goals.

- The people of Baegu Asifola are not opposed to the system but felt that as a prelude to the introduction of the new system we need to prepare our socio-economic infrastructure to more sustainable level. Therefore the people concluded that whilst the issue is important it is not urgent for the time being.

- The people expressed satisfaction about the draft constitution but would also want to request the Malaita Provincial Government and the National Government to establish and fund a specialist task force of economist, lawyers, administrators to make detail study into cons and pros of independence for Malaita and the Federal System of Government.

Consultations:

- Kaliana Village
  - 150 participants
  - All chiefs, elders and people from nearby villages
  - 60% male, 40% female

- Liliflia Primary School Compound
  - 164 participants
  - Male 60%, female 40%
  - All teachers, village chiefs, students, elders and women reps.

- Saua Artificial Island
  - 58 participants
  - 80% male, 20% female
  - Chiefs, elders, church leaders and community representatives from various nearby communities

- Riverside, Sulufoloa Substation
  - 87 participants
  - 80% male, 20% female
- Community leaders, chiefs, women leaders, village elders and other nearby village representatives

- **Usuusue Catholic Mission Station**
  - 54 participants
  - 98% male, 2% female
  - Community leaders, elders, church representatives and nearby community representatives

- **Fouia Road Head**
  - 64 participants
  - 80% male, 20% female
  - Village chiefs, elders, church leaders, women leaders and representatives from nearby villages.

- **Sulufou Island**
  - 61 participants
  - 70% male, 30% female
  - All participants are from Sulufou alone.

- **Urutao Market**
  - 150 people
  - 50% male, 50% female
  - All participants from nearby villages.
APPENDIX XI


Consultations:
- Held 5 consultations in Manawai, Hautahe, Tawainiora, Masupa and Raeao.
- No records of attendance - though “villagers from the nearby communities have attended these talks in great numbers. Whilst the object of the meetings were primarily to discuss the draft federal constitution the people opted to discuss the general principles, merits and demerits of the two systems of government within the context of the present climate.

Summary:
Views –
- The people of East Are Are see no urgency in tabling the Constitution in Parliament this year or in the immediate future. The 50 Constituencies and the 9 Provinces in the country need to prepare themselves and develop their socio-economic infrastructure to seriously address these structural weaknesses before any meaningful and sustainable transformation of governments can take place.
- The need for a Federal system need to be re-look at if the drive for the Federal system is fueled by hysterical and denationalizations of issues.
- The people believed that the reasons given for the urgent passage of the draft Constitution in Parliament was inadequate and more time should be allowed for debates and academic reassessment. This view was expressed in view of the fact that such competent authorities such as the Bar Association and the Economist and Accountant Association were not given the opportunity to scrutinize this major policy shift.
- Because of technical reasons the team had chosen to explain selected provisions in the draft constitution which they view as important for the purposes of the tour. It was not possible or logical to go through the 270 provisions in the draft constitution. However, it was recommended that the draft report should be discussed with the constituency technical experts who are all residing in Honiara before the final draft is submitted to the government.
APPENDIX XII

CONSTITUTIONAL CONGRESS MEMBERS & EMINENT PERSONS ADVISORY COUNCIL (EPAC) MEMBERS
SEVEN (7) THEME COMMITTEES OF CONSTITUTIONAL CONGRESS

FEDERAL FOUNDATION
1. Jackson Piasi (Chairman)
2. Judith Fangalasau (Vice Chairlady)
3. Josephine Behulu
4. Sir Baddley Devesi
5. Hilda Nose
6. Dr. Alice Pollard,
7. Ataban Tropa
8. Simmy Vazarabatu

FEDERAL POLITICAL SYSTEMS AND POWERS
1. Paul Tovua (Chairman)
2. Hudson G. Kwalea (Vice Chairman)
3. Joseph Huta
4. Charles Levo
5. Roselyn Lemoba
6. Henry Munahea
7. Vainga T. Tion
8. Joses Tuhanuku

FUNDAMENTAL HUMAN RIGHTS & FREEDOMS AND OTHER RIGHTS
1. Jack Faga (Chairman)
2. Catherine Pule (Vice Chairman)
3. Sabino Jerry
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3. Phylisca Fate
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7. Danny Phillip
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2. George Saemane (Vice Chairman)
3. Collin Gauwane
4. Viola Malasa
5. Tapualiki Samasoni
6. Jane Tozaka
7. Ashley Wickham

TRANSITION
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2. Pat R. Loi, (Vice Chairman)
3. Clara Rebitai
4. Alice Puia
5. Hilda Kari
6. Dr. John Roughan
7. Sir George Lepping
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*Provincial Government Act, 1981 (Repealed).*

