

# Transitional Justice Mechanisms in Solomon Islands

The Solomon Islands went through a period of unrest, known as the tensions, between 1998 and 2003. During this period scores of people were displaced, other human rights violations and abuses were committed, and mistrust of the national government increased. Since then, a number of positive steps have been taken through the creation of several transitional justice initiatives. These have included prosecutions for crimes committed during this period, traditional reconciliation ceremonies, compensation, institutional reform, and, most recently, the establishment of a truth and reconciliation commission.

## BACKGROUND

The South Pacific nation of Solomon Islands consists of nearly 1,000 islands divided into nine different provinces, and each has many unique cultures. The total population is almost 560,000. Solomon Islands gained independence from Britain in 1978, and successive governments struggled to unite the country and develop a sense of national identity. Twenty years after independence, violence erupted; as a result, many human rights violations were committed, including the displacement of thousands of people. Conflict continued from 1998 to 2003, a period of time now called the tensions.

Although the tensions are sometimes characterized as an ethnic conflict between people from the island of Guadalcanal—where the capital of Honiara is located—and the nearby island of Malaita (the most densely populated in the archipelago), the causes are far more complex. Benefits from development and the wealth from exploitation of natural resources were not (and are still not) evenly distributed across the country. These helped bring an influx of people to Guadalcanal in search of economic opportunity, many of them from Malaita. The disproportionate representation of Malaitans in government and the private sector contributed to perceptions that Malaitan settlers benefited unduly at the expense of indigenous people from Guadalcanal. Limited housing caused squatter communities to spring up around Honiara, and some people from Guadalcanal argued that settlers were occupying their customary land without proper permission or paying customary compensation. Differences in culture increased the confusion and the disagreements.<sup>1</sup>

## TENSIONS IN SOLOMON ISLANDS

In 1998, these grievances crystallized into a group of people from Guadalcanal demanding, among other things, rent for the use of Honiara as the national capital and compensation for the deaths of a number of indigenous people.<sup>2</sup> An armed group initially called the Guadalcanal Revolutionary Army or GRA (later called the Isatabu Freedom Movement or IFM) formed, and its members violently harassed settlers. These actions ultimately caused up to 20,000 people in and around Honiara to flee. This had a ripple effect on the islands to which these people fled.

The Malaita Eagle Force (MEF) formed in response early in 2000, with close links to state police. On June 5, 2000, the MEF raided a police armory in Honiara, seized the capital, and overthrew the national government. Fifteen days later, a new government was elected.

Later that year, the national government, the MEF, the IFM, and the respective provincial governments signed the Townsville Peace Agreement. The agreement granted a conditional amnesty to those who signed it. However, this wasn't enough to stop the conflicts; ongoing fighting and lawlessness of varying intensity continued until 15 neighboring countries formed the Regional Assistance Mission to Solomon Islands (RAMSI) and intervened in July 2003 at the government's request.<sup>3</sup>

## TRANSITIONAL JUSTICE EFFORTS TO DATE

### Solomon Islands Truth and Reconciliation Commission:

The Solomon Islands government that took office in December 2007 made national reconciliation its top priority and, as such, established a truth and reconciliation commission (TRC). The Truth and Reconciliation Commission Act 2008 was unanimously by Parliament in August 2008.

On April 24, 2009, in accordance with the TRC Act, five commissioners were appointed for the TRC.<sup>4</sup> Former South African archbishop Desmond Tutu launched the TRC in Honiara on April 29, 2009.

After a series of delays, the TRC officially began operations on January 15, 2010. It is funded by contributions from the Solomon Islands government, as well as the United Nations Development Program (UNDP), the European Union, Australia, and New Zealand. The UNDP is managing the funds from foreign donors. In accordance with the TRC Act, the TRC applied for a one-year extension to its mandate, which the Cabinet granted in December 2010.

**Prosecutions:** The judicial system, with support and technical assistance from RAMSI, has conducted several dozen “tension trials” for crimes committed between 1998 and 2003. These are still ongoing within the existing Solomon Islands court system, and there is no legal difference between a tension trial and a normal trial. For a case to be considered a tension trial, the prosecutor submits a brief to the chief justice of the High Court, who then determines if the case should be labeled as such. It is difficult to understand precisely how a trial is characterized as a tension trial as no system to determine this has ever been clearly established. The only known criteria are that the accused has to have belonged to one of the armed groups and the alleged crime has to have occurred during the period of the tensions.

The tension trials have addressed a range of crimes, all of which appear in the domestic criminal code. No one has been charged for international crimes.<sup>5</sup> Anecdotally there were many incidents of sexual violence during the tensions. Yet no tension trial has dealt with these crimes.

There is no set deadline for completing the tension trials, and it is unclear what will happen if and when the TRC exposes new cases.

**Reconciliation and Compensation:** A Ministry of National Unity, Peace and Reconciliation was set up in 2001. Since then it has conducted various activities across the country, such as organizing reconciliation workshops and consulting with stakeholders to deliver reconciliation programs. Reconciliation plays a large part in local custom: since each island—even village—differs culturally, this process needs to be tailored to the specific context.

Compensation is seen as a significant part of reconciliation in many of the local cultures. It often involves the symbolic exchange of food and traditional shell money between conflicting parties as a gesture of reconciliation and forgiveness.

There was also a government-led monetary compensation program for tension victims established in 2001. However, many believed that some government officials and former militants abused the program to get money for themselves and their families.<sup>6</sup> No coherent data exists in the public domain on how many people actually benefited from the scheme.

**Commission of Inquiry into Land Dealings and Abandoned Properties on Guadalcanal:** The land commission established in April 2008 was mandated to look into “customary land on Guadalcanal, including the customs relating to the acquisition, occupation, or settlement by persons from other provinces.”<sup>7</sup> It finally started in August 2009. However, because of ongoing allegations of corruption, it has currently been suspended indefinitely.

**Institutional Reform:** Institutional reform has been one of the areas where RAMSI has provided support to the Solomon Islands government. A recent initiative is the Voluntary Early Retirement Scheme for police officers who played a role in the conflict. This allows members of the police force to nominate themselves or someone else who has been somehow involved in the conflict.

## AMNESTIES

The Amnesty Acts of 2000 and 2001 give conditional amnesties for some tensions-related crimes. While they are very similar to what was outlined in the Townsville Peace Agreement, they include a provision stating that someone may not be granted amnesty if they have committed a violation of international humanitarian law or a gross violation of human rights. The amnesty acts also only apply to those groups that signed the peace agreement, and not all militant groups signed it.

Since neither the acts nor the case law offer guidance on how to apply for amnesties, virtually each case has adopted a different procedure. Only two amnesties have actually been granted under the acts, and few applications have been made.

Nominees were obliged to appear before the TRC in a closed hearing. Subsequently, those deemed to satisfy the scheme’s requirements will be asked to leave the police force, but will be given full pay until the age of 55. As of December 2010, there were no publicly available statistics on the number of people affected by this scheme.

No such efforts have taken place in government. In fact some members of Parliament have been found guilty of crimes relating to the tensions and served time in prison before taking office. One member of the cabinet was recently convicted of a tensions-related offense and has since been sentenced and, subject to appeal, will lose his seat in Parliament.

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<sup>1</sup> Braithwaite, John, Sinclair Dinnen, Matthew Allen, Valerie Braithwaite, and Hilary Charlesworth, *Pillars and Shadows: Statebuilding as Peacebuilding in Solomon Islands* (Canberra: Australian National University E Press, 2010), 19.

<sup>2</sup> These demands were known as the “Demands by the bona fide indigenous people of Guadalcanal” and were made to the national government on Feb. 4, 1999. They echoed earlier demands that had been put forward by the indigenous people of Guadalcanal in 1988 and 1978.

<sup>3</sup> The fifteen countries include: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Tonga, Tuvalu, and Vanuatu.

<sup>4</sup> The national commissioners are Chair Father Samuel Ata, Caroline Laore, and George Kejoa (deceased August 2010 and not replaced as of December 2010). The nonnational commissioners are Deputy Chair Sofia Macher (Peru) and Ratu Joni Madraiwiwi (Fiji).

<sup>5</sup> Arguably some of the crimes committed could in theory be considered war crimes. The case can be made that during the period of the tensions there was a non-international armed conflict in Solomon Islands pursuant to common art. 3 of the Geneva Conventions. While Solomon Islands is a party to the Geneva Conventions, it has a dualist system. Hence other than the provisions on grave breaches, the provisions on war crimes have not been incorporated into domestic law.

<sup>6</sup> See the report of the Commission of Inquiry into the April 2006 Honiara Civil Unrest.

<sup>7</sup> See <http://www.comofinquiry.gov.sb/>.