

# Justice Delivered Locally in Rural Solomon Islands



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Justice and security are important development goals for donors such as Australia and a high priority for poor people around the world. The plural realities of security and justice provision, comprising interplay between diverse actors and practices at different scales, are now widely acknowledged in development circles. Plural approaches to dispute resolution and everyday security prevail throughout rural Melanesia. While engaging with pluralism has become a standard exhortation in policy discourse, the evidence base for doing so is often thin. Few comprehensive studies have been undertaken by governments or donors to map out local configurations of justice and security provision and illuminate how end users navigate plural regulatory terrains.

A notable exception — and the subject of this In Brief — is the Justice Delivered Locally (JDL) project in Solomon Islands. This was a collaborative effort between the Solomon Islands Ministry of Justice and Legal Affairs, the World Bank's Justice for the Poor initiative and AusAID. Qualitative research was undertaken in 2010–11 in five of the country's nine provinces by local and international researchers. Some 86 rural communities were visited and more than 3000 individuals participated in focus group discussions. The JDL research documents the types of disputation and sources of grievance affecting rural communities, the various approaches adopted to manage conflict and interactions between them (Allen et al. 2013). It also highlights considerable experimentation and innovation in community governance that has occurred against the background of 'government withdrawal' over recent decades and that was accentuated during the recent 'ethnic tension'. Despite the significant assistance provided by the Regional Assistance Mission to Solomon Islands (RAMSI) (2003–13), justice and security provision remains frail in many rural localities, while conflict stresses continue to grow.

The JDL research identified three loose assemblages of socio-legal ordering in rural areas, distinguished according to the different sources of authority upon which each is based: state, *kastom* and church. These assemblages are neither uniform nor discrete and exist in diverse and mutable

configurations that vary over time and space. The overlap between them is evident in the invocation of simultaneous appeals to all three forms of authority in many disputes. Solomon Islanders are pragmatic, seeing a role for both restorative-oriented *kastom* and church approaches, and more retributive-oriented state justice. Each approach is seen as having core spheres of operation. State justice or 'government law' is viewed as more appropriate for serious infractions and disputes. *Kastom* is preferred for the most socially embedded types of contestation, such as land disputes, while church-based resolutions tend to be favoured in marital and family disputes, especially by women.

The increasingly fragile condition of these various approaches in many rural areas is amply documented in the JDL data. There are serious problems of access to state justice for rural citizens, with government personnel and facilities overwhelmingly concentrated in Honiara and several provincial centres. While the ethnic tension severely damaged the reputation and functioning of state justice, especially the police, many of their weaknesses are longstanding. Complaints levelled regularly against the police include nepotism, lack of responsiveness, drunkenness and other forms of inappropriate behaviour. Charges of 'company policy' were also frequent in respect of disputes between villagers and logging companies, with police often reliant on these companies for transport and other assistance. Common complaints about the courts included the lack of resident magistrates in the provinces; irregularity of court circuits; delays in court proceedings; costs to litigants; and the restricted scope and reach of local courts, which sit at the base of the court hierarchy.

In addition to ready accessibility, reliance on *kastom* justice highlights the continuing legitimacy of community-based mechanisms in rural areas. Despite the colonial origins of 'customary law' (Akin 2013), *kastom* approaches are widely perceived as indigenous and contrasted with the 'foreign' character of state justice. Their form varies considerably but is typically equated with the exercise of authority by local chiefs based on appeals to *kastom*. Rather than being static and archaic, *kastom* approaches are dynamic and adaptable. Churches also play an important role in

dispute management in many places. With around 98 per cent of Solomon Islanders identifying as Christians, churches are at the centre of village life. Although viewed as based on different sets of logic, *kastom* and church approaches are seen as entwined and complementary (McDougall and Kere 2011). They share broadly similar goals around the restoration of social relationships damaged by dispute or conflict.

Local approaches have come under increasing stress in recent years. New kinds of 'development' have generated intense levels of contestation that undermine the integrity of these approaches. The JDL research identified four main types of contemporary disputation: social order problems, often associated with substance abuse; commercial development and land-related disputes; disputes arising from non-government organisation, donor and government projects; and marital conflict and domestic violence. Consistent with other parts of Melanesia, the presence of natural resource development was the most significant determinant of social cohesion in rural localities (Allen 2013). Local authority structures become compromised when chiefs are viewed as partisan players in such activities. Increased spending power among the principal beneficiaries can also accentuate substance abuse and associated social problems, including long absences in town and neglect of leadership responsibilities.

Compliance with *kastom* resolutions is largely dependent on community pressure and this is weakened with increasing fragmentation and contestation at local levels. JDL researchers heard repeated calls for more support to local approaches, particularly to chiefs, to enhance their dispute resolution and enforcement capabilities. The alleged neglect of community leadership structures by central government in recent years is widely contrasted to the ostensibly more supportive relationship that existed during the late colonial period and, subsequently, under the area council system which was abolished in the late 1990s. An important aspect of the widespread claims of 'state withdrawal' expressed by rural citizens has been the progressive decoupling of state provision of justice and security from local *kastom* approaches.

Despite the growing fragility of local approaches, JDL found evidence of extensive experimentation and innovation as rural communities seek to reconfigure and strengthen their coping strategies.

These generally involve efforts to forge effective linkages between approaches, in particular between *kastom* and state justice, while retaining a strong measure of local control. They represent an attempt to reverse the decoupling noted above but, contrary to the centralising tendencies of government and the recent RAMSI intervention, focus on alignment between different approaches. Local experimentation encompasses a range of hybrid governance arrangements including 'village committees', 'village councils', 'village associations' or 'advocacy committees', and the elaboration of community 'constitutions', 'laws' and 'ordinances'. These initiatives are envisaged as catalysts for 'development' with potential for mobilising local resources and attracting external assistance. Rather than being inconsistent, popular wishes to adapt and strengthen local approaches while simultaneously calling for greater state engagement appear to be quite compatible. They indicate the aspirations of rural citizens for more effective articulations between local and state approaches that can ultimately enhance the capabilities of both. An important message for policymakers is the need to broaden justice and governance engagements beyond the conventional focus on state and urban-based institutions to ways of accommodating the plural realities of social ordering and regulation as experienced daily by most citizens.

### Author Notes

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### References

- Akin, D.W. 2013. *Colonialism, Maasina Rule, and the Origins of Malaitan Kastom*. Honolulu: University of Hawai'i Press.
- Allen, M.G. 2013. Melanesia's Violent Environments: Towards a Political Ecology of Conflict in the Western Pacific. *Geoforum* 44:152–61.
- Allen, M., S. Dinnen, D. Evans and R. Monson 2013. *Justice Delivered Locally: Systems, Challenges, and Innovations in Solomon Islands*. Washington DC: World Bank.
- McDougall, D. and J. Kere 2011. Christianity, Custom, and Law. In M. Brigg and R. Bleiker (eds). *Mediating Across Difference: Oceanic and Asian Approaches to Conflict Resolution*. Honolulu: University of Hawai'i Press, 141–62.

