

SOLOMON ISLANDS

Country Report: Anti-terrorism laws & policing

1. Country summary

- a. **Government:** Constitutional Monarchy (Elisabeth II, Governor General, Prime Minister)
- b. **Population:** 478 000
- c. **Size:** 28 896 sq km
- d. **Region:** Pacific


e. General

The Solomon Islands were a significant site of battle during World War II. Following the war, the British colonial Government returned. At the same time, a revolutionary movement named Maasina Ruru, whose leaders were eventually jailed in 1948, led a mass campaign of civil disobedience and strikes. Throughout the 1950s, new indigenous dissident groups appeared and disappeared. In 1960 an advisory council of Solomon Islanders was superseded by a legislative council, and an executive council was created as the protectorate's policymaking body. It was progressively given more authority. In 1974 a new constitution was adopted establishing a parliamentary democracy and a ministerial system of government. In 1975 the British Solomon Islands Protectorate became the Solomon Islands.

Independence arrived in 1978, and the first government was elected in 1980. Following the 1997 elections, the situation started to deteriorate due to the ethnic tensions. That period is characterised by the military civil war between the Isatabu Freedom Movement and the Malaita Eagle Force. Peace agreements were signed between both factions and the Government in 2000 and 2001. However, in 2002 further outbreaks (credited to the Malaita Eagle Force) led to the Prime Minister's resignation and new elections. The new Prime Minister sought external help to respond to the chaos and bankruptcy of the country. Australian and Pacific Island police were sent to the country in 2003 through the Regional Assistance Mission to the Solomon Islands (RAMSI). No military forces are maintained by the Solomon Islands, although there is a police force of nearly 500, including a border protection unit.

Following elections in April 2006, allegations that the new Prime Minister had used bribes by a Chinese businessman to buy votes led to mass rioting in the capital. Chinatown, where most of the Chinese community lived, was destroyed. Chinese, Australians and New-Zealanders were evacuated by their governments before further Australian and New-Zealand troops were sent in. Prime Minister Riani resigned and parliament elected Manasseh Sogavare as the new Prime Minister.

The relationship between the Solomon Islands and Australia has suffered during this time, as demonstrated by the attempts of the Solomons Government to prevent the Australian police chief from returning to the Islands in December 2006.



The Solomon Islands do not have specific anti-terrorism legislation. However, legislation introduced in 2002 focused on money laundering and mutual assistance in criminal matters, covering aspects of terrorist activity.

In policing more generally, police operations in the Solomon Islands, on the Weather Coast in particular, have been criticised and human rights groups have reported human rights abuses. Police operations increased since the arrival of the Regional Assistance Mission to Solomon Islands (RAMSI) in 2003 following the *Facilitation of International Assistance Act 2003*. Many arrests and charges have been made as a result of “tensions” between various militia groups.¹ This police action is not addressed in this report.


Here, relevant examples include the various acts relating to the elimination of money laundering and terrorism financing; and the tightening of border control mechanisms such as immigration, maritime security and aviation security.

Anti-terrorism measures in the Pacific Islands

Since 11 September 2001, the Pacific Islands have been under pressure to comply with international anti-terrorism conventions. The demands come principally from Australia, which considers the Pacific Islands to be at risk of being used by terrorists as transit points to other countries including Australia. Prior to 2001, Australia had already been involved in policy and legislative decisions in the Pacific Islands. The Australian Attorney General’s Department and the Pacific Islands Forum (PIF) had agreed on the 1992 Honiara Declaration on Law Enforcement Cooperation, which requires the Pacific Islands “to have in place policy and legislation to combat transnational organised crime”.² The Nasonini Declaration on Regional Security followed the Honiara Declaration in 2002, with an emphasis on counter-terrorism and the need to conform to the United Nations Transnational Organised Crime Convention and Protocols. Australia already has Memoranda of Understanding with the Fiji Islands and Papua New Guinea although neither country has anti-terrorism legislation in place.

The PIF has also adopted a Pacific Plan, the “Kaliboro Roadmap”.³ The Pacific Plan has four pillars aimed at improving economic growth, sustainable development, good governance, and security for the Pacific through regionalism. The fourth pillar on increased security addresses anti-terrorism.

Most of the Pacific Islands do not have any specific anti-terrorism legislation. However, new legislation has been drafted to secure borders, particularly around maritime and aviation points. Therefore the impact of anti-terrorism is most evident on the policing of border control, customs, immigration, money laundering, port control and airport security. Additionally, there has been a crackdown on transnational crime, an issue that was already prevalent long before 2001. Although security has visibly increased, finding examples of the impact of relevant legislation on policing in the general public is difficult due to the sparse use of the term terrorism in that context. In fact, Pacific Islanders prefer not to use the term loosely and there is a popular opinion that terrorism is not a fundamental issue to be addressed in the Pacific Islands. One opinion, expressed by Imrana Jalal of Pacific Regional Rights Resource Team (RRRT), is that the Pacific does “not wish to be drawn into America’s war on terrorism”.⁴



Critics of the Pacific Plan have expressed distrust over the “disproportionate concern about national security, particularly Australian national security. Since [Pacific Island Countries] are not yet to be overly concerned with external threats, there is an argument that security in this context ought to be more about human security... rather than focused only on national security”.⁵ The Pacific Islands have existing internal issues to attend to such as economic, environmental, social and political matters. Many regard these issues to be more important to the region than issues of terrorism.

2. Relevant legislation

The Solomon Islands have not enacted specific anti-terrorism legislation.

ii. Other relevant legislation

Preservation of Public Security Act [Cap 27] (PPSA)

Emergency Powers Act [Cap 11] (EPA)

Banking Act [Cap 48]

Criminal Procedure Code [Cap 7]

Deportation (Amendment) Act 1999

Deportation Act [Cap 58]

Explosives Act [Cap 79]

Extradition Act [Cap 59]

Firearms and Ammunition (Amendment) Act 2000

Firearms and Ammunition Act [Cap 80]

Money Laundering and Proceeds of Crime Act 2002

National Disaster Council Act [Cap 148]

Penal Code [Cap 26]

Sedition Act [Cap 32]

3. Law summary

Two laws in the Solomon Islands are particularly relevant to anti-terrorism policing and are the focus of this report. These are the *Emergency Powers Act* and the *Preservation of Public Security Act* (PPSA). These acts confer total powers to the Governor General. The *Emergency Powers Act* can only be used in certain circumstances such as war or a state of emergency. However the PPSA does not have the same constraint. Under the PPSA decisions by the Governor General do not require approval by parliament, effectively granting unfettered power to this executive authority. In 2007, the possibility of using the PPSA to control unrest in the Solomon Islands was being discussed with the Australian leaders of the RAMSI.

4. Provisions

a. Definition

Legislation in the Solomon Islands does not provide a definition of terrorism.

b. Arrest

PPSA provides for arrest provisions under section 5. It states that the Governor General can issue arrest orders.

Section 3(f) of the *Emergency Powers Act* provides for the arrest and trial of offenders.



c. Detention/custody

Section 3(a) of the *Emergency Powers Act* provides for the detention or restriction of persons and the deportation and exclusion of people from the Solomon Islands.

d. Use of force

Preservation of Public Security Act (PPSA)

The PPSA authorises the Governor General (GG), if s/he is satisfied that it is necessary for the preservation of public security, to declare public security regulations until s/he decides that they shall cease (section 3). It shifts power from parliament or the judiciary court and consolidates it entirely in the hands of a single executive office holder. The Governor General can also decide to restrict the order to a part of the island.

The public security regulations that can be taken under section 3 are:

- Restrictions or prohibitions on publications (dissemination, production, publishing, sale, distribution);
- Restrictions or prohibitions on the right of assembly;
- Restrictions or prohibitions for control of residence, movement and transport of persons, possession, acquisition and use of movable property, and the entry, egress from, or occupation of immovable property;
- Regulation and control on food, alcohol, medical supplies, water, electricity, medical services, telecommunications, broadcasting, airports, and on the production, import or export of such services;
- The ultimate power to “make provision for, and authorise the doing of, such other things as appear to him to be required by the exigencies of the situation in Solomon Islands.”

Section 66(1)(c) of the PPSA allows the Governor General to amend a written law; or to empower authorities or people of his choice to make orders and rules if he wishes so; or for the delegation of the powers and duties conferred under the regulation; or to “contain such other incidental and supplementary provisions as appear to the Governor-General to be necessary or desirable for the purposes of such regulations”.

Section 4 of the PPSA provides for special public security regulations.


Despite the general power given to the Governor General to form regulations under section 3(3)(e), he or she cannot regulate in relation to the detention of persons or the requirement of persons to do work and render services (section 4(3)). Section 5 further provides that nothing under section 3 or 4 authorises the making of any regulation providing for the trial of persons by military courts.

Pursuant to the PPSA, the Governor General can, with notice, declare a state of emergency in the Solomon Islands.

Emergency Powers Act (EPA)

The EPA provides special powers of law enforcement in the case of an emergency. This act is only applicable in two clearly defined cases:

- When the Solomon Islands are at war;

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- When a declaration of a state of emergency is made under section 16 of the Constitution.

The Constitution provides that, during an emergency, there may be restrictions of the right to personal liberty, freedom from forced labour, right to privacy of the home and other properties, freedom of conscience, or expression, right to assembly and association, right to movement, and freedom from discrimination on grounds of race, political opinion, or sex. Remaining non-derogable rights must be upheld, for example the right to life, secure protection of the law, property rights, freedom from torture, cruel and inhumane treatment and freedom from servitude.

Emergency regulations can be applied to a whole or part of the Solomon Islands, and these regulations shall overrule the law. Under a state of emergency, regulation can be made for, amongst other things:

- Detention or restriction of persons and deportation;
- Taking of possession or control of any property and acquisition of any property other than land;
- Enter and search of premises;
- Restriction of the right to assembly;
- Compensation of persons affected by the regulations;
- Apprehension and trial of persons offending the regulations; and
- Suspension of or amendment of the law.

¹ From 1998-2003 (prior to RAMSI) there were many murders and crime committed in the conflict between the two main militia groups, the Malaitan Eagle Force (MEF) and the Guadalcanal Liberation Force (GLF). This period was coined the “tension period” and when RAMSI was established in the Solomon Islands, many “tension arrests” were made and consequently “tension cases” are still going through the courts. See Cauchi, John (2005), *The Solomon Islands: Helping rebuild the Criminal Justice System*, <http://www.isrc.org/Papers/2005/Cauchi.pdf>.

² Attorney-General’s Department, Australian Government (2006) *Australia’s Aid Program in the Pacific: Submission by the Attorney-General’s Department*, 30 June: <http://www.aph.gov.au/house/committee/jfadt/pacificaid/subs/sub15.pdf> as on 6 March 2007.

³ See Australian Government: Department of Foreign Affairs and Trade (25-27 October 2005), *Thirty-Sixth Pacific Islands Forum*, p.2, http://www.dfat.gov.au/geo/spacific/regional_orgs/pif36_communique.html as on 06/03/07.

⁴ Jalal, I (14 July 2006) “Through Pacific Eyes: Australia and the Pacific Islands”, *National President’s Forum*, 14 July: http://www.aiia.asn.au/national/7_Jalal_Through_Pacific_Eyes.html as on 5 March 2007.

⁵ Ibid.