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RECONCILIATION AND THE CRIMINAL PROCESS IN THE SOLOMON ISLANDS

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Abstract**:** *Reconciliation is a fundamental part of the Solomon Islands. This article examines how that process sits with the criminal justice system and suggests that the proper role for reconciliation is only as an adjunct to the formal court process.*

INTRODUCTION

The concept of reconciliation and compensation is very important in the Solomon Islands way of life. From the policy perspective it makes good sense that where a small population live in the finite reality of an island that a mechanism exists to enable continuous harmonious living. Both policy and anecdote suggest a role for reconciliation in Solomon Islands society.

Fifi'i, a Solomon Islander, referred to the value of this traditional method of resolving disputes as opposed to the imported British adversarial system when he stated that:

> Our customary laws work better than (the criminal court process) - at least for us, and our way of life and the things we value. When compensation is paid, in shell money or whatever, then the two sides are joined together again. Both sides are satisfied and nobody is angry afterwards.[1]

He goes on to say that after the matter is settled "people can go back to being friends again"[2].

Reconciliation in a matter such as assault involves the parties who were involved getting together, usually with a moderator and family and friends present. The process varies but generally involves apologies, often prayer and a feast, as well as the exchange of valuables such as shell money as compensation. Cash is often used in modern society. Compensation is often paid to the family rather than to the specific victim. Once this process is gone through the matter is completed as far as the traditional concept is concerned, however it is not necessarily finished so far as the Court system is concerned.

This paper examines how reconciliation fits with the adversarial nature of the criminal justice system in general. It also considers the issue with particular reference to the problems specific to the Solomon Islands. As discussed below, over a period of some years the Solomon Islands descended into the ethnic tensions ("the tensions") and it is apparent that customary reconciliation was not able to cope with the significant crimes which arose during that period.

Reconciliation works through the acquiescence and support of the community in which it exists, and where it is undermined from within that community the relevance and force it has is similarly reduced. Reconciliation works as a bridge to repair damaged relationships between individuals, families and communities. It is a very powerful tool for maintaining harmonious relationships when it is used in a genuine spirit of cooperation and friendly relations.

A major problem during the tensions was that many decisions of reconciliation were made at the point of a gun. It was more akin to demanding money with menaces than traditional resolution of conflict. The fact that reconciliation was able to be manipulated for personal enrichment by many suggests that it is a system

open to abuse. This personal enrichment and abuse extended to the highest levels of Government.[3]
Fifi'i acknowledges the need for other means than traditional ones when he says that murder and other serious crimes should be dealt with in the Court.[4]

HISTORY OF THE SOLOMON ISLANDS LEADING TO THE TENSIONS

The origin of the tensions can be traced back through the history of the country, even before it became a British Protectorate in 1893. It is fair to say, then as now, "kinship was the cement of each society, binding the individual to the group."[5] This overarching Melanesian trait is important when considering the recent history of the Solomon Islands.
The Solomon Islands has a history, even before independence in 1978, of migration amongst the islands. After World War II Honiara became the capital and large numbers of migrants, especially from Malaita, came to Guadalcanal. This led to a perception, and perhaps a reality, that Guadalcanal had a "monopolisation of services and facilities."[6] This further led to the development of Honiara, as well as resentment in outlying regions. Limited economic growth and development, together with Governmental corruption, meant that within a few years of independence the Solomon Islands became a "weak, rotting state." [7]
Increasing pressure of population, limited arable land and lack of opportunity for young people, including education, made fertile ground for rebellion. Liloqula states that exploitation of natural resources also played a significant role.[8] She points out as significant the failure of successive Governments to develop just and effective policies, while still failing to address fundamental differences between the different cultures of the Solomon Islands.[9]
The Preamble to the Townsville Peace Agreement ("TPA"), which was intended to resolve the crisis of the tensions, describes how from April 1998 armed groups of Guadalcanal youths began evicting some 20,000 Malaitans from Guadalcanal land. The Guadalcanal Revolutionary Army (which later became the Isatabu Freedom Movement) and other organisations began to grow within the community and contributed to the build up of tension and violence.
Arkwright notes that: "What began as a small trickle of displaced Malaitans turned over 6 months into a river of refugees...."[10]
In response, the Malaita Eagle Force ("MEF") was formed to respond and retaliate. It consisted of many members of the Royal Solomon Islands Police Force ("RSIP") whose numbers were overwhelmingly from Malaita. Hostilities continued, and a coup occurred on 5 June 2000. There was a ceasefire on 2 August 2000 and ultimately the TPA on 15 October 2000. Although a ceasefire came into operation, "(it) failed to solve many of the problems emanating from the civil unrest or to address the underlying causes...(such that) law and order continued to be a problem."[11]
In the small community which is the Solomon Islands the effects of the tensions were widespread. Rape, murder, robbery and intimidation were commonplace, at least in Honiara. Offences were committed by both sides, the MEF and Guadalcanal equivalents.
Even the TPA, which formally ended the fighting, failed to bring stability[12]. What followed the tensions and the coup were years of unrest. This was only ended by the arrival of the Regional Assistance Mission to the Solomon Islands ("RAMSI") in 2003. RAMSI has provided military and police personnel from countries throughout the Pacific region to assist and strengthen law and order in the Solomon Islands.
Following on from the arrival of RAMSI have been an increase in the workload of the Courts for criminal prosecutions. Many of the matters before the Courts relate to offences during and after the ethnic tensions.

CUSTOMARY LAW, RECONCILIATION AND THE COURTS

Customary law is recognised by Schedule 3 to the Constitution.[13] The Schedule states that the rules and common law of England have effect in the Solomon Islands save as, *inter alia,* they are inconsistent with customary law.[14] The Schedule also specifically states that customary law has effect as part of the law of the Solomon Islands, although declaring that it does not apply in so far as it is inconsistent with either statute or the Constitution.[15]
Reconciliation, as part of customary law, therefore has specific recognition in the Supreme Law of the Solomon Islands. Of course, the difficulty arises in determining where the lines are drawn. Corrin Care and Zorn argue that Judges in the Pacific should be encouraged to find customary law in the same way that ordinary law is found.[16] Corrin Care states that:

> To insist that customary law is to be proved as a matter of fact is to derogate from the constitutional status of customary law as a recognised, formal source of law as provided by Schedule 3.[17]

However, the immediate problem presented is which custom? The Solomon Islands consists of disparate people spread over a vast archipelago, with differing languages and religions. To determine which custom to apply, if such a thing is possible, is a difficult matter and open to argument.[18]

In *Tutala & Anor v R*[19] Kabui J observed that:

> The criminal law system in custom is individual or tribe biased in that (p. 4) the strongest survives. I think that is the general distinction between the two systems and this is why ordinary Solomon Islanders are mystified about the operation of the criminal law system in Solomon Islands. In custom, there were only three methods of punishment, namely, death, compensation, or banishment. There were no niceties at play. Compensation has survived the other two methods to this present day.[20]

This suggests that custom, including reconciliation, is still evolving, perhaps analogously to the common law, which then creates further difficulty in identifying what custom is. This is particularly so when there is a matter of great significance at issue. Nevertheless, custom will be used by the courts in cases where it is applicable.[21]

RECONCILIATION WITHIN THE COURT STRUCTURE

a) The Magistrates' Court

The Magistrates' Court Act[22] provides for the Court to have a role in reconciliation in certain cases. Section 35(1) of that Act provides that:

> In criminal cases a Magistrates' Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for common assault, or for any offence of a personal or private nature not amounting to felony and not aggravated in degree, on terms of payment of compensation or other terms approved by such court, and may thereupon order the proceedings to be stayed or terminated.

There is no definition of what is 'of a personal or private nature' or what amounts to 'not aggravated in degree'. This provision is used often in domestic violence cases.

It is not clear from the wording of the section whether a plea of guilty needs to be indicated, or what potential use could be made of admissions made in an unsuccessful reconciliation attempt outside of court. The practical approach appears to be that an admission of guilt is at least implicit in acceptance of reconciliation.

In a Practice Direction by a former Chief Justice of the High Court[23] guidelines were issued to the court on how to deal with this section. In particular they note that a court should never automatically allow reconciliation, regardless of which party applies for it, unless it has considered the relevant facts for itself and also that there is "clear evidence of the payment (of compensation, if appropriate)."[24]

Compensation often does not go directly to the victim, it is often payable to the family of the victim. In the case of women, this can mean payments go to her father or brothers and nothing goes to her. This demonstrates the complexities of a traditional concept being used in an adversarial context.

The result of a case may be that an offender has no criminal history recorded against him, and compensation is paid to people other than the victim. On the other hand, it is beneficial to a community that harmony be restored as soon as is practicable and with the least amount of disruption.

b) The High Court

There are no reconciliation provisions available in the High Court, nor for more serious offences in the Magistrates' Court. However, the High Court has recently emphasised the importance of reconciliation. In the case of *Timo v R*[25] where the Court was required to consider an application for bail where there was alleged to have been a breach of a specific condition that the defendant not approach witnesses. It was alleged that there had been such an approach, in spite of the order of the court.

Palmer CJ, in granting fresh bail, said:

> ...reconciliation ceremonies are entrenched in our culture but also within the context of our civil society whose laws are based on Christian principles. Reconciliation does have a place in our society. It looks to the future even after an accused had been punished by the courts under the law, it enables that accused to be able to re-settle back into a community after serving his/her time in prison.[26]

The Court went on to conclude that: "...apart from his attempts to effect reconciliation and compensation payments to the complainant, he has complied with the other bail conditions."[27]

The prosecution argued that it was an attempt to pervert the course of justice by attempting to influence the key prosecution witness, despite a specific court order in his bail conditions. This was rejected by the court in favour of express recognition of the role of customary law and reconciliation.

What the judgment does not mention is the fact that the offences were alleged to have occurred on 3 and 6 September 2001. There was no suggestion in the judgment that there were efforts to 'reconcile' prior to the arrival of RAMSI, after which the charges were laid.

Such a traditional system, imbued as it is with a clearly appropriate social element, is open to abuse. In *R v Faufane & Ors*[28] Lodge PM, in dealing with a charge of demanding with menaces, said:

> ...if the accused honestly believed that they had a good claim in custom they would not have approached Elijah in the way that they did. They would have approached him openly and would have followed up the claim.[29]

Similarly, in *Loumia v DPP*,[30] the Court considered whether a murder could in fact be regarded as justified by custom requirements. While the Court recognised that custom law was a body of law separate to statute law and distinct from other sources, if it is inconsistent with the Constitution and Statute, it will be held to be inapplicable.[31]

Connolly JA noted:

> The court should not, by its decision, give any encouragement to the view that an alleged duty to maim or otherwise injure the person or property of others can render lawful that which is expressly made unlawful by the Statute Law of Solomon Islands.[32]

It is sometimes suggested that custom law should be given greater weight than it is.[33] If that were the case, then the sovereign Parliament of the Solomon Islands, independent for over a quarter of a century, could have made greater provision for dealing with criminal prosecutions, taking into account custom and the process of reconciliation. Of course, this is more problematic where the 'custom' varies from village to village and from island to island, and is exacerbated where the dispute is between people from different custom areas.

SENTENCING AND RECONCILIATION

As stated by Corrin Care and others, it is in the field of sentencing that custom law is the most visible.[34] It is submitted that it is also the most appropriate place for it to be used by the courts.
In *R v Asuana* [35] Ward CJ said:

> It should always be remembered that compensation is an important means of restoring peace and harmony in the communities. Thus the courts should always give some credit for such payment and encourage it in an appropriate case.... Thus, any custom compensation must be considered by the court in assessing sentence as a mitigating factor but it is of limited value. The court must avoid attaching such weight to it that it appears to be a means of subsequently buying yourself out of trouble.[36]

There can be no doubt that traditional reconciliation is regarded positively in the sentencing process. Although it is not a defence,[37] it is a significant mitigating matter. The prospect that a fine imposed by a court will be paid by relatives has been held to be permissible within the Solomon Islands as it involves the "customary support system",[38] even if that would be seen as unusual in other jurisdictions.
The recognition of reconciliation and compensation by the courts is an important link between traditional society and the modern state. It reflects community values and the approach of an individual to a crime and as such is important to be considered by courts on sentence.

RECONCILIATION AND THE TOWNSVILLE PEACE AGREEMENT

Part 5 of the TPA requires that there be reconciliation at "community, village, family, individual and organisational levels" and that there be "public displays" of forgiveness organised by the Government.[39] A Peace and Reconciliation Committee was also created to promote this.
Reconciliation sits uneasily beside criminal prosecutions in serious matters. On the one hand the Amnesty Acts of 2000 and 2001[40] do not provide amnesty for persons charged with criminal offences except in those circumstances where all conditions precedent have been complied with. On the other, the reconciliation provisions of the TPA would clearly evince an intention to reconcile and forgive the past. While emphasis is given to reconciliation, it also recognises a role for criminal prosecutions.
The "Winds of Change" Conference, held in Honiara in June 2004 provided graphic illustration of reconciliation in the Solomon Islands. It was front page news that there was reconciliation, and apologies, for a woman whose cousin-brother was beheaded by Malaitans during the tensions.[41] The Conference

also heard speakers from South Africa talk about the reconciliation which had occurred in that country.[42] It is clear that within the general community there is a process of reconciliation which continues to play an important role in the community.

In his speech to the Parliament introducing the Amnesty Act 2000 the Minister in his second reading speech said: "the people of the nation are now ready to reconcile, forgive and forget."[43]

It is apparent that the process of reconciliation continues throughout the community. It exists outside of the formal structure of the courts and plays an important role in the functioning of the society.

BREAKDOWN OF TRADITIONAL RECONCILIATION

Judicial *dicta* suggests that there has been a breakdown of the traditional means of settling disputes. This is particularly so in respect of tension related matters. Palmer J, in sentencing remarks for an assault in a domestic setting, said:

> Even the so-called ethnic tension could have been averted if people had been prepared to resort to other means to settling their grievances and arguments rather than resorting to weapons and fighting.[44]

Clearly, reconciliation was not able to deal with the difficulties opened up before and during the ethnic tensions. It is a fine line to tread between respect for traditional ways and maintaining a consistent and equitable criminal justice system, able to deal with the extraordinary. The debilitating and far reaching effects of the tensions are reflected in the judgments of courts dealing with the relevant period and subsequently.

Officers of the Director of Public Prosecutions were subjected to harassment by a group of men, even though they were in the presence of police officers.[45] Drunken armed gangs were commonplace[46], and the organisation which was supposed to do the policing, the RSIP, was bereft and often the very people responsible for the criminal activities.[47] Exhortations by women's groups to the RSIP to do their jobs failed to have an impact.[48] This climate meant that the functioning of the criminal law system was severely hampered. The then current Director of Public Prosecutions, a Guadalcanal man, was forced to flee Honiara due to the tensions.[49]

Where the law was still able to operate, the procedure and the laws were not followed in the same manner as in the ordinary case. For example, the felony/tort rule was not followed[50], bail applications that would "normally be thrown out" were granted[51] and other applications for bail which might ordinarily be granted were refused.[52]

Subsequently, in dealing with matters from the tensions Brown J stated that:

> I propose...to include the obvious national cultural imperative to recognise "ethnicity" as a factor in those types of bail applications.[53] (in particular he was considering Malaitan influence in the police force)

The criminal process was clearly affected by the serious and ongoing problems brought about by the tensions. The fact that there are still reported decisions shows that prosecutions were able to continue after a fashion, but this was in very diminished circumstances and not in accordance with the ordinary practice of the law of the Solomon Islands.

These cases demonstrate a general breakdown of law and order, as well as a breakdown in the process of reconciliation. Neither process was able to neither control the situation nor deal with the immediate problems that arose. The arrival of RAMSI and the arrests following has calmed the situation and restored functional Government and society. Traditional reconciliation could not.

THE BREAKDOWN OF RECONCILIATION AND THE CRIMINAL PROECESS

Case Study #1[54]

D was charged with malicious damage of two small items. He was given twelve months by the aggrieved party to reconcile and pay for the damage. He failed to do so and was charged. Upon being charged he sought the provisions of Section 35 and the court permitted reconciliation.

If reconciliation is genuine then why does it await the institution of charges? If reconciliation is regarded with sincerity and held as an admirable approach to conflict then why does it still not succeed, even in the absence of the tensions? In my view cases such as this suggest that reconciliation does not appear to have the significance it once did, particularly in urban areas. In rural areas where there may not be access to police, the traditional ways may still be stronger, often because of this necessity.[55]

Many commentators express the view that traditional practices, in particular reconciliation and compensation, have been corrupted in recent years.[56] Corrin Care goes further and states that "The compensation mentality is a serious obstacle to restoration of law and order and progress to economic recovery."[57]

The period of the tensions enabled some people to enrich themselves rapidly at the expense of others. Compensation from bogus reconciliation was seen by some as a legitimate means of wealth generation, at the expense of the legitimacy of the concept of reconciliation itself. The ongoing effect of this is significant and is reflected in the case study above.

Further, the fact of the tensions and the necessity of the arrival of RAMSI demonstrates that the traditional means of reconciliation were not coping in the atmosphere in which they existed. Even today, what might once have been regarded as a civil responsibility to abide by proper reconciliation, and thereby avoid the criminal process, is not always adopted.

DOMESTIC VIOLENCE AND RECONCILIATION

Case Study #2[58]

D was charged with three counts of assault occasioning actual bodily harm to his wife. There were independent witnesses to the assault but not to the extent of injury caused. The wife refused to give evidence. The charges were reduced by the prosecution to common assault and then reconciled under s.35 of the Magistrates Court Act.

A prime criticism of reconciliation is in respect of domestic violence cases. It is in cases such as this that economic inequality and cultural norms can have the strongest impact in a negative way upon women. The Practice Direction in respect of s. 35(1) of the Magistrates' Court Act specifically states that where there is an allegation of matrimonial violence then "the court should be especially careful before it is satisfied the victim has really agreed."[59]

As Imrana Jalal notes: "Numerous cases reveal the enormous pressure put on women to reconcile with their husbands", and further that, "(w)omen are bullied and harassed by the magistrate, prosecutor and defence counsel in court to withdraw all criminal charges."[60]

Other commentators note that the customary approach can impact adversely to the human rights of a woman[61], and that it can lead to an absence of meaningful sanction.[62]

Findlay also notes that:

> ...because of the unequal power positions of persons negotiating domestic reconciliations, the private nature of their terms, and the application of expectations that may go well beyond the immediate issue of the assault or future threats of violence, reconciliation may become more of an avoidance of penalty, rather that a penalty.[63]

The position of a prosecutor becomes problematic because the woman, usually the only witness, often will not give evidence and there is no legal bar to a reconciliation taking place. A suspicion of further threats, or simply economic necessity, is not sufficient to avert reconciliation. It is possible to summons her to court, but there is no prospect of being able to force her to give evidence unless she chooses to do so.

The High Courts Practice Direction suggests in cases such as this that the perpetrator be 'bound over' for a period of time. Although this is not a sentence as such, as the proceedings are 'stayed', it may in theory at least allow for further deterrence and possible retribution. Whether this in fact occurs cannot be tested by statistics, and anecdote suggests otherwise.

Reconciliation in the criminal process does not necessarily protect women from further violence. It does deal with matters quickly and avoids the shame of public family disharmony but it does not deal with the fundamental issues. It does not address fundamental attitudes and societal views of women, nor their economic vulnerability. It does not make the society safer. It is a pragmatic solution which papers over the deep cracks and permits the person with the strong hand, the man, to get his way.

CONCLUSION

Reconciliation undoubtedly has a place in the criminal legal system of the Solomon Islands, as it does within the framework of that society. However, the difficulty comes in applying a remedy which is not intended for the English adversarial system. The two do not sit well together.

While reconciliation undoubtedly provides an opportunity for parties to deal with their differences outside of court, it is an open question as to how far this should translate into the criminal justice system. It is submitted that it should be limited to a mitigatory matter to be taken into account on sentence. The tensions demonstrated that reconciliation was not able to deal with the larger issues which were unleashed, although to be fair nor was the Court system, and should not be relied upon to the exclusion of the criminal process. That is, while reconciliation should be relevant to determining outcomes, it should not be permitted to overrule the rule of law in other cases, in particular domestic violence.

In my view the tensions vividly demonstrated how the traditional practices of reconciliation could be usurped by self interest. This pattern of self interest has survived the tensions and still exists. In my view, a strong, independent judiciary is a vital bulwark against the excesses of enforced unfair reconciliation which is neither sincere nor lasting. For this reason, if for no other, reconciliation should not be permitted to exclude the actions of the criminal courts, although it has an appropriate ancillary role to play.

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[1] Jonathan Fifi'i (Roger Keesing, Editor and Translator) 'From Pig Theft to Parliament: My Life between Two Worlds' (1989) 148.

[2] Above n 1 at 157.

[3] J Bennett, 'Roots of Conflict in Solomon Islands Though Much is Taken, Much Abides: Legacies of Tradition and Colonialism', *State Society and Governance in Melanesia, Discussion Paper 2002/5* at 11.

[4] Above n 1 at 166.

[5] Above n 3 at 2.

[6] Above n 3 at 8.

[7] Above n 3 at 10.

[8] R Liloqula, 'Understanding Conflict in Solomon Islands: A Practical Means to Peacemaking', *State Society and Governance in Melanesia, Discussion Paper 00/7* at 4.

[9] Above n 8 at 5ff.

[10] Father N Arkwright, 'Restorative justice in the Solomon Islands', in Dinnen & Ors (ed) *A kind of mending: Restorative Justice in the Pacific Islands* (2003) 177 at 182.

[11] T T Kabutaulaka, "Failed State' and the War on Terror: Intervention in Solomon Islands', Analysis from the East-West Center, No 72, March 2004 at p. 3.

[12] B R Vaughn, 'Australia's Strategic Identity Post-September 11 in Context: Implications for the War Against Terror in Southeast Asia' (2004) 26(1) *Contemporary Southeast Asia* 94.

[13] See also s. 76 of the Constitution which permits amendment by Parliament of the Schedule.

[14] S. 2(1)(c) of Schedule 3. The common law is the common law of England: s. 16(1) *Interpretation and General Provisions* (Cap 85).

[15] Section 3(1) and (2) of Schedule 3.

[16] J G Zorn and J Corrin Care 'Proving Customary Law in the Common Law Courts of the South Pacific'(2002) *British Institute of International and Comparative Law* 68.

[17] J Corrin Care 'Customary Law in Conflict: The Status of Customary Law and Introduced Law in Post-colonial Solomon Islands' (2001) 21 *UQLJ* 167 at 175.

[18] Above n 8 at 6.

[19] Unreported, High Court of the Solomon Islands, Criminal Case No 22 of 2000, 5 May 2004.

[20] Above n 19 at p. 3.

[21] *Sukutaona v Houanihou* [1981] SILR 12 at 13, per Daly CJ .

[22] Cap 20.

[23] Practice Direction No 1 of 1989, per Ward CJ.

[24] Above n 23.

[25] Unreported, High Court of the Solomon Islands, Criminal Case 189/2004, 19 May 2004.

[26] Above n 25 at p. 3.

[27] Above n 25 at p 4.

[28] [1987] SILR 88.

[29] Above n 28 at 90.

[30] [1986] SILR 158.

[31] Above n 30 at 167 and 170, per Kapi JA.

[32] Above n30 at 163.

[33] Above n 16 at 70.

[34] Corrin Care and Ors (ed) *Introduction to South Pacific Law (*1999) 142.

[35] Unreported, High Court of the Solomon Islands, Criminal Case No 34 of 1990, 12 October 1990.

[36] Above n 35 at p. 2.

[37] See *Loumia v DPP above* fn 30 and also *R v Sura and Ors* Crim Case 46/1993, 4 August 1993 per Palmer J where it was held that threats could not accompany a demand for money even if it was genuinely believed that money as compensation was payable; see also *Fefele v DPP* [1987] SILR 2 at 2, per Ward CJ.

[38] *Inito v R* [1983] SILR 177 at 178 per Daly CJ.

[39] TPA Part 5 [1](a) and (b).

[40] No 8 of 2000. Commencement 23 July 2001 by Supplement to Solomon Islands Gazette SI No 28, 13 August 2001 and No 3 of 2001.

[41] 'Winds of forgiveness blow strong', no author, *Solomon Star*, 25 June 2004, 1.
[42] G Herming 'In forgiveness lies our redemption', *Solomon Star*, Weekend Magazine, 25 June 2004, 3.
[43] Parliament of Solomon Islands Hansard 18 December 2000 at p. 10.
[44] *R v Kana*, unreported, High Court of the Solomon Islands, Criminal Case #161 of 2001, 31 July 2001 per Palmer J at p. 1.

[45] *Buarafi v R*, Unreported, High Court of the Solomon Islands, Criminal Case No 200 of 2002, 23 August 2002 per Palmer J at p. 3.
[46] *R v Funubana & Ors* Unreported, High Court of the Solomon Islands, Criminal Case 297/2003 29 June 2004 per Brown PJ at p. 2.
[47] *Timo Mike v Tavake and Ors* Unreported, High Court of the Solomon Islands, Criminal Case No 134 of 2003, 6 November 2003 per Brown J at p. 2.

[48] A Aruhe'eta Pollard 'The 'Women for Peace' Analysis and Approach', *State Society and Governance in Melanesia, Discussion Paper 00/7* at 9.
[49] *R v Talu*, unreported, High Court of the Solomon Islands, Criminal Case Number 21 of 2000, per Palmer J at 1.
[50] Above n 47.

[51] *R v Robu and Ors* , unreported, High Court of the Solomon Islands, Criminal Case 28 of 1998, 14 June 2000 per Palmer J at 2.
[52] Above n 45.

[53] *Oeta and Maelalia v R*, unreported, High Court of the Solomon Islands, Criminal Case No 294 of 2003, 4 December 2003.
[54] Case was prosecuted by the writer in the Magistrates' Court at Honiara.
[55] Above n 17 at 176.

[56] D Hegarty and Ors 'State Society and Governance in Melanesia', *Discussion Paper 2004/2*, Research School of Pacific and Asian Studies at p 5; see also *above* n 8 at 189.

[57] J Corrin Care, "'Off the Peg' or 'Made to Measure': Is the Westminster system of government appropriate in Solomon Islands' (2002) 27 Alt L J 207 at 211.
[58] Case was prosecuted by the writer at the Magistrates' Court at Honiara.
[59] Above n 23.
[60] I Jalal, '*Law for Pacific Women: A Legal Rights Handbook'* (1998) 161.
[61] Above n 34 at 40.

[62] A Jowitt and Cain (ed), T N 'Passage of Change: Law, Society and Governance in the Pacific' (2003) 170; see also Jalal n 60 at 108.
[63] M Findlay 'Crime, community penalty and integration with legal formalism in the South Pacific' (1997) 21 The Journal of Pacific Studies 145 at 157.