

CHAPTER 3

POWERS AND FUNCTIONS

The distribution of powers and functions between the national and other levels of government tends to be the central issue in any programme of decentralisation. It also tends to be the most time-consuming and contentious, requiring detailed understanding and review of almost all that government does, and disturbing entrenched interests. It tends to be particularly complex in cases of political decentralisation because they generally involve transfers of control not only from one level of government to another but from appointed public servants to elected politicians.

The way in which the distribution of powers and functions is given legal effect helps to define the autonomy of subnational bodies, to shape the structure of relations between the various levels of government, and to determine the degree to which political decision-making becomes constrained by unnecessary legalism or involves unnecessary use of legal forms. Policy-makers who are contemplating or implementing a programme of political decentralisation cannot afford to limit themselves to making decisions about the distribution of powers and functions and leave the legal framework of decentralisation to legal technicians – at least not if they seriously want to see that the decentralised system works as closely as possible to plan.

The following brief account of the way in which the Special Committee on Provincial Government dealt with the division of powers and functions in Solomon Islands and with the problems involved in giving its recommendations legal effect is intended to help explain much of the material contained in Working Papers 3.1 to 3.4 and Appendices 3.1 and 3.2. It might also be useful in suggesting how similar issues in other countries might be approached, after suitable adaptation to local circumstances of the methods used in Solomon Islands.

Towards the end of the nationwide tour mentioned in the Introduction, members of the Special Committee met for some general discussions on the shortcomings of the inherited system of provincial government and on the possibilities for change. Their attitudes covered quite a wide spectrum – from hoping that changes in the distribution of powers and functions would provide opportunities to bring about particular changes (in education policy, the discipline of ships' crews, etc.) to believing that changes in the exact location of control over decision-making were worthwhile ends in themselves. As discussion turned to detailed consideration of the main activities of each national ministry, it became clear that members were sometimes less concerned with changing particular policies or the ways in which those policies were made than with ensuring that provincial governments were not only consulted by the national government on certain subjects, including the national development plan, but that they *had* to be. Members were, in short, also concerned with formalising, and imposing legal requirements on, previously informal arrangements for consultation between the national and provincial governments (see Chapter 7) as well as public servants performing national and provincial functions in the provinces (see Working Paper 4.1).

After rather lengthy, general discussions of the kinds described, during which members identified the potentially most controversial issues and developed a feeling for one another's views, the Special Committee turned its attention to framing specific recommendations on the distribution of powers and functions between the national government, provincial governments and Area Councils. In doing so, it paid particular attention to the situation of the national capital, Honiara, which members regarded as 'a special case' (Solomon Islands 1979b: 12) because of its unique role as a national centre, the concentration of financial and skilled manpower resources there, and the problems involved in managing relations between the urban area covered by the Town (proposed to become 'City') Council and its largely rural surrounds, which come under the Guadalcanal Provincial Government.

The Special Committee's consideration of the distribution of powers and functions was detailed and systematic – probably more so than its Papua New Guinea counterpart's. It was so because the Special Committee was able to devote more time to the subject; because it was able to draw on previous experience in Solomon Islands and elsewhere; and because it had access to fairly reliable lists of the existing powers, functions and manpower resources of both the national and provincial governments.

Table 1 in Working Paper 3.2 shows where public servants performing provincial functions were located. Table 2 shows the public servants performing national functions who were stationed in, or toured, the provinces. Appendix 3.2, which was originally prepared for the *Plan of Operations*, lists the functions of both the national and provincial governments. And Appendix 3.1, which was compiled especially for the Special Committee, lists the functions vested in provincial governments by the *Local Government Act* (Cap. 14) alongside the functions allocated to particular national ministries in October 1978.

Three further lists, which have not been reprinted in this volume, were made available to members to assist in their consideration of the distribution of law- and policy-making powers: a list of the legal and constitutional provisions regulating each national government function, including a list of statutory bodies and relevant legislation; a list of laws in force in Solomon Islands; and a list of headings in the *Penal Code*.

Detailed papers were also prepared suggesting how particularly contentious issues, including land, internal migration and control of domestic shipping, might be dealt with under existing law or by amending legislation (see Chapter 6 for examples).

The first and second working papers in the chapter were prepared on the basis that it is possible to distinguish between responsibility for carrying out certain tasks of government (that is, 'functions') and responsibility for determining which tasks to perform and how they should be carried out (that is, 'powers' – to make laws and policies). The distinction cannot be always clearly made – a great deal of administration involves the use of discretion, while some policy-making is tightly constrained and essentially routine – and many political scientists regard it as almost impossible to sustain (cf. King 1975: 175-182). It was not well made in the *Final Report* of the Constitutional Planning Committee in Papua New Guinea, in which a proposed division of powers and functions lists only 'functions' (Papua New Guinea 1974a: Part 2, S/3-S/28), although it has since shown up in the separate lists of 'law-making' and 'executive' powers drawn up during implementation (Papua New Guinea 1978: 16-20). But the distinction was consistent with what members of the Special Committee saw as both the principal achievement and the principal shortcoming of the *Plan of Operations*: that it had brought about decentralisation of functions rather than powers. Moreover, it seemed to work in practice: when the Committee's staff and consultants came to compare the recommended distribution of powers and functions, they found that the two lists were compatible.

The Special Committee began detailed consideration of the distribution of powers and functions with Working Paper 3.2: identifying many 'functions' by reference to the tasks performed by holders of particular posts, it worked through the lists in Tables 1 and 2 analysing how efficiently the decentralisation of functions in the *Plan of Operations* had been carried out, and examining whether staff located in, or touring, the provinces performing national functions should have their functions transferred to provincial governments. It then turned to Appendices 3.1 and 3.2 to identify functions which had not shown up in Tables 1 and 2 (for example, functions which, though allocated to the national or provincial governments, were not actually being carried out by public servants).

In some respects, the Committee's consideration of the distribution of government functions proceeded as if it proposed to do no more than extend the range of functions covered by the *Plan of*

Operations. It did, however, pay attention to the possibility of increasing the efficiency and economy of government by providing for greater co-ordination of public servants performing national and provincial functions (the sanctions required to secure such co-ordination are discussed in Chapter 4).

Having worked its way through the various lists once, the Committee then went through the lists again, with the aid of Working Paper 3.1, deciding who should have the power to decide whether each function should be performed at all, and if so how: Area Councils, provincial governments or the national government – acting alone, or subject to guidelines set by a ‘higher’ level of government, or only after consultation with a ‘lower’ level. It also went through the other lists mentioned above, discussing whether additional powers embodied in Acts of Parliament, including the *Penal Code*, should be transferred to provincial governments. The recommendations that it made on the distribution of powers were consistent with a previous decision in which Committee members had declared that provincial governments should, in principle, have law-making powers, without specifying what they should be.

As members of the Special Committee worked through the lists described, they realised that many powers which had previously been vested in provincial governments had not been used – because provincial governments had not known that they had them; because they had lacked advice about alternative ways in which they might be used; because national policies, laws, regulations and/or technical standards had supervened; and/or because they had not had adequate resources to do anything with them. The Committee, therefore, recommended ‘a comprehensive law reform’ to ‘make space’ for provincial governments to use powers which were formally theirs (Solomon Islands 1979b: 37-38). The Committee also reviewed the powers and functions of statutory bodies, concluding that the Acts governing a number should be changed to take greater account of provincial governments’ views – by including representatives of provincial governments on their boards – and to transfer certain powers and functions to provincial governments (*ibid.*: 45-46).

Committee members realised that not all policy-decisions had been embodied in law (probably relatively fewer under British rule in Solomon Islands than under Australian rule in Papua New Guinea). They were concerned to ensure that decentralisation did not lead to a situation in which more than absolutely necessary were. They were, moreover, not committed to decentralisation to the exclusion of all else: they were, for example, concerned to protect provincial governments against attempts by the national government to ‘dump’ unwanted or unduly burdensome powers and functions on provincial governments when the latter also did not want them or lacked the resources to perform them properly.

The lists with which the Committee worked did not legally define the potential powers and functions of government in Solomon Islands. They showed where government staff were posted and what they did, not what they might potentially do. In fact, definitive lists of government powers and functions were unobtainable – probably, by definition – because, while the constitutional limits on government can be known from the constitution, the potential powers and functions of the government of an independent, unitary state are otherwise almost limitless – or, rather, limited by the government’s resources, public opinion, Government policy and technology rather than the law. But notwithstanding their many inadequacies, the lists were useful working tools for the Special Committee. Thus, the material which appears in Tables 1 and 2 of Working Paper 3.2 as well as Appendices 3.1 and 3.2 might suggest potential sources of relevant information, and also ways of organising that information for advisory bodies involved in decentralisation in other countries.

When the Special Committee came to consider how its recommendations on the distribution of power and functions should be given legal effect, it sought the assistance of Yash P. Ghai, whose task was not so much to outline options as to recommend solutions. His recommendations, which are contained in Working Paper 3.4, are both original and consistent with the Committee’s commitment

to a 'simple, modest and effective' system of provincial government (Kausimae 1978: 43; Solomon Islands 1979b: 10). They are designed to avoid imposing unnecessary legal constraints on political processes; to provide a certain autonomy for provincial governments while accommodating change; and to take account of the relative scarcity of trained lawyers in Solomon Islands (where there is only a handful of lawyers in government service, and none in private practice). They are also designed to provide a measure of certainty about the law – by guarding against the creation of legal vacuums when the decentralised system is introduced, and by recommending publication of both national and provincial laws in the *Solomon Islands Gazette*.

The main features of the scheme proposed by Ghai are outlined in Working Paper 3.4: a guarantee of a certain minimum of autonomy for provincial governments, embodied in a list of subjects on which provincial governments should have the final power to make laws and policies (List A); a stress on consultation and co-operation, embodied in a list of subjects on which the national government should have the final say but must first consult provincial governments (List B); and safeguards for shared national interests, embodied in the power of the National Parliament to override provincial legislation on List B subjects and in the reservation of residual powers exclusively to the national government. The paper also makes a number of suggestions about how the national government might 'make space' for provincial governments within the framework of existing national laws.

The third list which forms part of the scheme in Working Paper 3.4, a list of functions which might be vested in provincial governments (List C), is an extension, so to speak, of the arrangements set up under the *Plan of Operations*.

In order to ensure that members of the Special Committee were aware of the options available to them, Working Paper 3.3 was prepared and discussed before the scheme outlined in Working Paper 3.4 was finally accepted. The earlier paper raises issues which might fruitfully be considered in any scheme of political decentralisation. The scheme set forth in Working Paper 3.4 was accepted by the Special Committee but later modified by the Solomon Islands Government (Solomon Islands 1979c: 8-9, Appendices I-III, and 1980: sections 27-34, Schedules, 4-6, 8). It provides a model which policy-makers in other countries might like to test.

WORKING PAPER 3.1

LAW- AND POLICY-MAKING POWERS

1. The Committee has already decided that –
 - provincial governments must have law-making powers; and
 - there should be a national law saying that provincial governments must empower Area Councils to make bye-laws.
2. The Committee might now like to begin discussing the powers which provincial governments and Area Councils should be given. In doing so, members might like to begin by asking –
 - how effectively provincial governments have used their existing powers; and
 - what the reasons for any shortcomings might have been.
3. Under the *Plan of Operations* –
 - provincial governments were given responsibility for many government functions (see Appendix 3.2),
 - but staff performing these functions remain subject to the law- and policy-making powers of the national government.

The subjects over which provincial governments can make bye-laws are listed in the schedule to the *Local Government Act* (see Appendix 3.1).

Members might like to examine the subjects listed in the right-hand column of Appendix 3.1 to see whether provincial governments have made full use of the powers listed.

If there are cases in which provincial governments have not made full use of their powers, members might like to consider whether they have not done so because –

- they have not wanted to use certain powers;
- they have not known that they have had certain powers;
- they have lacked the staff and/or the money to use certain powers;
- they have not been able to use certain powers for legal reasons (that is, the existence of a national law has prevented them);
- certain powers were useless.

The Committee might then like to consider what needs to be done to give provincial governments effective law-making powers –

- should some national laws be amended or repealed to give provincial governments more space to use their existing powers?

- do provincial governments need help (money, skilled staff or legal assistance) to enable them to use their existing powers more effectively?
- should changes be made to any national laws to increase the powers of provincial governments?
- would some powers be more effectively used if they were handed back to the national government and it consulted provincial governments about how to use them, but did the legal and other work itself?
- should there be no change?

In considering the above questions, members might like to bear in mind the desirability of increasing the powers of provincial governments without excessive legalism. It is possible that provincial governments might be able to make more effective choices if they were given alternatives from which to choose than if all of the legal work is left to them. In Papua New Guinea, many provincial governments have simply copied legislation prepared for or by other provincial governments because they lacked skilled staff to provide them with options. Would it be better if alternative drafts were prepared at the centre instead, and staff released for drafting particularly important local laws? It should also be remembered that there is no need for policies to take the form of laws.

Members might also like to consider -

- whether provision should be made for certain powers to be guaranteed to provincial governments (and if so which powers);
- whether there should be national controls on some/all/no provincial legislation; and
- whether there should be a national law requiring devolution from provincial government to Area Council level; and if so what it should say.

WORKING PAPER 3.2

CONTROL OVER GOVERNMENT ACTIVITY IN THE PROVINCES

1. Under the *Plan of Operations*, the field staffs of a number of government departments were brought under the control of provincial governments.
2. Table 1 outlines what has already been done under the *Plan of Operations* to bring staff under the control of provincial governments and suggests additional staff which might be brought under provincial control in the same way.
3. When considering whether additional staff should be brought under the control of provincial governments, it should be remembered that staff under provincial control must often follow national policies and laws. Questions concerning the amount of control provincial governments should have over the laws and policies followed by their staff were raised in Working Paper 3.1.
4. The Committee should also consider whether provision should be made for provincial governments to move staff (other than technical and professional staff) under their control between departments. It might, for example, be possible to save money by amalgamating, and so rationalising administration and support services for, several departments. Money saved from doing away with existing posts which become unnecessary might be used for new posts to strengthen other parts of provincial governments.
5. There are some government activities which could be controlled by provincial governments but for which there is not enough staff available to do the work in some or all provinces. The Committee might like to consider whether the people who carry out such activities should be taken out of their present ministries and placed in the Ministry of Home Affairs – either permanently or until further staff are available.

TABLE 1

Achievements and Possible Extensions of the *Plan of Operations* in Bringing Staff under Control of Provincial Governments

Ministry of Youth and Cultural Affairs

Already Done	:	none (but planned)
Possible	:	Social Development (say 12 of 14) Library Service (say 2 of 4)

Ministry of Transport and Communication

Already Done	:	none (and none planned)
Possible	:	Marine Service Division (say 130 of 139) (as decided under shipping)

Office of Prime Minister

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Ministry of Home Affairs

Already Done	:	Administration and Accounts (115)
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Ministry of Agriculture and Lands

Already Done	:	Agriculture Extension (82)
Possible	:	Further extension including Training Centres (say 24 of 27) Land Use Division (8) Land Administration (say 10 of 15)

Ministry of Education and Training

Already Done	:	Staff to Local Education Boards (29)
Possible	:	no more (according to Ministry)

Ministry of Health and Medical Services

Already Done	:	Medical, Nursing etc. Officers (214)
Possible	:	Malaria Eradication Programme (205)

Ministry of Trade, Industry and Labour

Already Done	:	none (but planned)
Possible	:	Trade Development (most of 13) Labour Division (most of 15) Cooperatives (say 42 of 45) Business Development (say 23 of 26)

Ministry of Works and Public Utilities

Already Done	:	Local Government engineer, works office etc. (35)
Possible	:	Engineering Branch; many to Honiara Town Council (say 40 of 45) Mechanical Branch (most of 22) depending on provincial decision about transport pools

Ministry of Finance

Possible	:	A few accountants
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Ministry of Natural Resources

Done	:	none, but fisheries extension to Makira next year, and offered to Malaita
Possible	:	Fisheries extension, excluding dealing with highly migratory species, covered by international agreements (say 8 of 15) Forestry extension, and some development (replanting) (say about 10 of 53)

Ministry of Law and Information

Done	:	none (and none planned)
Possible	:	Information Service (12 of 14).

6. Table 2 lists functions for which Committee members and/or the national government have at various times indicated that responsibility should remain with the national government. It is divided into two parts:

- (i) functions performed by staff located permanently in provinces;
- (ii) functions performed by staff who only tour provinces.

7. In considering whether staff performing these functions should remain under national control, it is also necessary to consider whether any or all national staff in provinces should be required to make some reports to the Premier (or meetings of the Premier and senior provincial staff) and/or required to consult and attend meetings, and, if so, what form such consultation should take and how it should be enforced.

TABLE 2

(i) Staff Serving National Functions Stationed Permanently in the Provinces

<i>Ministry of Youth and Cultural Affairs</i>	:	—
<i>Ministry of Transport and Communications</i>	:	Marine Dockyard (Tulagi) Radio Services Telephone Services
<i>Office of the Prime Minister</i>	:	Police Prisons Immigration
<i>Ministry of Home Affairs</i>	:	—
<i>Ministry of Agriculture and Lands</i>	:	Cattle Development Veterinary/Livestock Research Produce Inspection and Quarantine
<i>Ministry of Education and Training</i>	:	National Teaching Service
<i>Ministry of Health and Medical Services</i>	:	Malaria (if not handed over under Table 1)
<i>Ministry of Trade, Industry and Labour</i>	:	Trade/Cooperatives/Labour (if not handed over under Table 1)
<i>Ministry of Works and Public Utilities</i>	:	—
<i>Ministry of Finance</i>	:	Statistics Customs
<i>Ministry of Natural Resources</i>	:	Forestry Fisheries
<i>Ministry of Law and Information</i>	:	Information (if not handed over under Table 1) None

(ii) Staff Serving National Functions Who Only Tour Provinces

Note: includes cases where a touring officer might be based in another province

<i>Ministry of Youth and Cultural Affairs</i>	:	Libraries, Museums
<i>Ministry of Transport and Communication</i>	:	Telecommunications Aeronautical and Meteorological Services Training Services
<i>Office of Prime Minister</i>	:	Central Planning Office
<i>Ministry of Home Affairs</i>	:	—
<i>Ministry of Agriculture and Lands</i>	:	Physical Planning Survey
<i>Ministry of Education and Training</i>	:	Education Division
<i>Ministry of Health and Medical Services</i>	:	Professional and Technical (Doctors etc.)
<i>Ministry of Trade, Industry and Labour</i>	:	—
<i>Ministry of Works and Public Utilities</i>	:	—
<i>Ministry of Finance</i>	:	—
<i>Ministry of Natural Resources</i>	:	Geology
<i>Ministry of Law and Information</i>	:	Registrar General's Office.

8. The Committee has already agreed that Honiara should be the national capital but not a province. Members might therefore like to consider —

- whether all/some/no staff exercising the functions listed in Table 1 should come under the control of the Honiara Town Council; and
- whether the decisions made about Table 2 should apply in Honiara.

9. The details of how control over provincial staff can be exercised are discussed in Chapter 4.

WORKING PAPER 3.3

LEGAL CONTROL OVER POWERS AND FUNCTIONS

1. The Committee has made recommendations on how the power to make laws and policies as well as responsibility for the performance of government functions should be divided between the national government, provincial governments and sub-provincial authorities. The Committee might now like to consider how the law should vest control over their respective powers and functions in the various levels of government.

2. There are several ways in which the law might divide the powers and functions of government between the national and provincial governments:

Option (i) By defining in as much detail as possible exactly which powers and functions belong to each level of government

Advantages

- clarity
- comprehensiveness

Disadvantages

- list might be long, complex
- might be conflict over definitions
- hard to define total government powers and functions
- hard to define future needs and activities of government

N.B. It would still be necessary to say to which government new or undefined powers and functions should belong.

Option (ii): By defining the powers and functions of *either* the national government *or* provincial governments and leaving all undefined powers and functions to the other

Advantages

- simplicity
- defined powers and functions clear
- control over undefined powers and functions clear
- less long, complex than (i)
- less likely to lead to conflict over definitions than (i)
- control over new powers and functions clear

Disadvantages

- no comparison of defined and undefined powers and functions so division unclear
- changing circumstances might reduce importance of defined powers and functions

Option (iii): By defining the powers and functions which belong exclusively to either the national government or provincial governments *or* by defining both and leaving it open to both levels of government to try to exercise other powers and functions

Advantages

- exclusive powers and functions give autonomy
- undefined area allows flexibility

Disadvantages

- might be conflict in undefined area
- list of exclusive powers and functions might be too small
- could lead to inflexibility as circumstances change.

3. If Option 2(i) or 2(ii) were chosen, it would be necessary to decide to which government new or undefined powers and functions should belong:

Option (i): To the national government

Advantages

- concerned with national issues
- likely to have greatest financial resources
- could be decentralised after constitutional review or by amendment

Disadvantages

- not as close to local needs
- could weaken decentralisation

Option (ii): To provincial governments

Advantages

- helps decentralisation
- responds to local needs

Disadvantages

- not as concerned with national issues
- lack financial resources of national government
- could weaken national unity

Option (iii): To either, depending on the outcome of negotiations

Advantages

- flexibility

Disadvantages

- uncertainty
- might lead to conflict.

4. If Option 2(iii) were chosen, the powers and functions which both the national and provincial governments are allowed to use could *either* be defined in detail *or* be left undefined. The advantages and disadvantages of each are similar to those of Options 2(i) and 2(ii) above.

5. In either case, it would have to be made clear who should prevail if both the national and provincial governments tried to exercise the same power or to perform the same function in conflicting ways:

Option (i): The national government

Advantages

- maintain uniformity
- concerned with national issues
- consistent with national sovereignty

Disadvantages

- might reduce provincial autonomy
- might reduce flexibility/responsiveness to local circumstances

Option (ii): provincial governments

Advantages

- consistent with decentralisation
- help ensure flexibility/responsiveness to local circumstances

Disadvantages

- might weaken national government coordination and control too much
- might lead to too much variation between provinces.

6. There could be a legal requirement that whichever level of government prevails must consult the other before making laws and policies or assuming functions which are open to both. Alternatively, the matters on which consultation is required might be specially listed.

Consultation procedures might be closely defined to ensure that proposals are in writing, there is adequate time for proposals to be studied, comments considered, and the outcome made known. They might involve the Premiers' Conference and/or individual provincial governments - perhaps depending on the urgency of the proposals.

If Option 5(i) were chosen, it would be open to provincial governments to propose that national policies/laws be changed to 'make space' for the provinces. They might propose that certain national laws/policies provide no more than a framework within which Provincial Assemblies might still make their own laws/policies; that certain national laws/policies contain alternatives from which provincial

Assemblies might choose; that part or all of certain national laws/policies come into effect or cease to operate as Provincial Assemblies may decide.

If Option 5(ii) were chosen, provincial governments might also propose that the national government carry out none/part/all of a certain function until provincial governments are able to do so.

7. The division of powers and functions between the national government and provincial governments could be embodied in several different forms of legislation:

Option (i): The constitution (or a schedule to the constitution)

Advantages

- in supreme law
- hard to change

Disadvantages

- may become inflexible
- may make constitution too long

Option (ii): A national law

Advantages

- flexible - easier to change than constitution
- can be changed only by body representative of whole country

Disadvantages

- less protection for provinces
- no special safeguards as for constitutional amendments

Option (iii): Subordinate legislation (a bye-law, warrant etc. issued under a national law)

Advantages

- flexible for national government - and Parliament can still disallow

Disadvantages

- lacks status of national law, constitution
- for provinces - too easy for national government to change

Option (iv): Provincial constitutions made in accordance with Options (i) or (ii) or (iii) above

Advantages

- may allow differences between provinces to be shown
- division in provincial constitutions

Disadvantages

- may require too many amendments to show changes as powers/functions transferred
- repetitive of national arrangements and may make provincial constitutions too long.

8. If the division were enshrined in the constitution, the Committee would have to decide on the number of votes required for Parliament to change the decision.

If the division were enshrined in a national law, the law might be made more difficult to amend than other laws - by, say, requiring an absolute majority.

9. When provincial governments make laws/policies on matters over which they have exclusive control or share control with the national government, these laws/policies could take effect in a number of ways:

Option (i): As provincial governments decide

Advantages

- provincial autonomy
- quicker
- less complex

Disadvantages

- might be found illegal later
- no national perspective

Option (ii): Subject to approval at national level

Advantages

- second opinion
- national perspective
- might help avoid later conflict
- need not rule out negotiation

Disadvantages

- less provincial autonomy
- conflict - might be better solved through negotiation, mediation, arbitration, courts

Option (iii): Subject to disallowance at national level

Advantages

- second opinion
- national perspective

- comes into effect unless disallowed

Disadvantages

- less provincial autonomy
- might lead to conflict
- differences might be better solved in other ways.

10. If Option 9(ii) or (iii) were chosen, power to approve/disapprove/disallow could be given to

- (i) Governor-General (possibly, in accordance with the national Government's advice)

or

- (ii) Cabinet

or

- (iii) Minister of Home Affairs

or

- (iv) National Parliament.

Provision could be made so that law/policy comes into effect automatically unless disapproved/disallowed at national level within a specified period - so the national attitude must be made clear and provincial governments not blocked by delay.

11. Publication of provincial legislation could take place in a number of ways:

Option (i): By Provincial Governments

Advantages

- done on the spot
- each province's laws in one place

Disadvantages

- lack of resources
- hard for other provincial/national governments to know laws

Option (ii): By the national government (perhaps in a special supplement to the *Solomon Islands Gazette*)

Advantages

- all laws together - so laws more easily known
- might be cheaper

Disadvantages

- not done on the spot
- might be some delay/cost more.

12. There could also be legal provision for the national government and provincial governments to delegate powers/functions to each other -

- (a) with conditions attached if delegating government has final power
- (b) if recipient government agrees - to prevent loading their problems on each other.

13. There could also be requirements in the constitution/national law that certain powers/functions be given to sub-provincial authorities (perhaps by provincial constitutions).

Decisions must also be made on the mode of publication of sub-provincial authorities' bye-laws.

WORKING PAPER 3.4

LAW-MAKING POWERS AND EXECUTIVE POWERS

A. LAW-MAKING POWERS

1. It is possible to divide law-making powers between the national and provincial governments in a number of different ways. Working Paper 3.3 set out the various options in this regard. It is proposed in this paper to set out a possible scheme for adoption in Solomon Islands.

2. When considering the law-making powers of provincial governments, it is useful to bear in mind that provincial governments may have more extensive executive powers than legislative; that is, they may have executive power over subjects in relation to which the legislative power is with the national government. This situation opens up possibilities of wide-scale devolution in areas which, for various reasons (for example, need for uniform national standards), are reserved as national government legislative powers.

3. The constitution shall contain a list of subjects on which provincial legislation will prevail over national legislation (List A). This list would include the subjects which are of concern only to the provinces and do not have much significance from a national point of view, for example, local government, control over places where alcohol may be sold. The list should contain a minimum number of subjects of some importance for the provinces, to make possible a viable system of provincial government. At the same time, it should not contain topics where some degree of national regulation may be necessary; List A should not be extensive. Some possible subjects include customary law regarding chiefs, sale and distribution of alcoholic liquor, the control of licensing of public entertainments and of places of public entertainment, minor roads.

4. The subjects in List A could be classified *either* as exclusive provincial powers, in which case the national government could not legislate about them at all, *or* as final provincial powers, in which case national legislation could be passed if it were not inconsistent with existing provincial legislation.

5. In addition to subjects which are purely of provincial concern (List A) and subjects which are of purely national concern (for example, international relations, defence, currency), there are many subjects in which both the national and provincial governments have an interest. It is therefore important in relation to these subjects that no one government can make a law entirely on its own; and it is necessary to establish a system whereby there is consultation and cooperation between the provincial and national governments. The constitution shall contain a list of subjects (List B) where the primary power to make laws will lie with the national government, but it will not be able to make a law without giving provincial governments a chance to be consulted on the legislation. Thus, when the national government wants to make a law on a subject in List B, it will be required to circulate a draft of the proposed law with explanatory notes to provincial governments and give them, say, a month, to send comments back to the national government. The national government will not be bound by these comments but, in the normal course of events, will be expected to give the most serious consideration to these comments. Some suggestions for possible inclusion in the list are: agriculture, fisheries, interprovincial shipping.

6. As areas where the national and provincial governments have a common interest may change from time to time, it is useful to have a system whereby List B can be changed accordingly, without weakening the protection that provincial governments enjoy of having the right to be consulted on as many subjects as possible. It is therefore proposed that changes in List B (either to add to it or to delete from it) should only be made by a law in Parliament supported by an absolute majority, and the draft

bill for this must have been previously approved by all Provincial Assemblies.

7. It may sometimes be desirable for a Provincial Assembly to make its own laws on a subject in List B. When this is the case, a Provincial Assembly should give a month's notice of its intentions and send a copy of the proposed law to the national government. A Provincial Assembly will not be able to make laws on a topic if a national law already exists on it.

8. The Committee should recommend that, as far as possible, the national government, when making laws on List B subjects, should lay down only the general principles and leave the details, in so far as these are of provincial significance, to be filled by provincial legislation. This will mean that, on points of principle, there will be uniform laws throughout the nation, while at the same time implementation of the principles will be adapted to provincial circumstances. It will mean that, when the national government is drafting a law, it will have to give careful consideration to what matters are best determined at the national level and what at the provincial level.

9. As, at the beginning of the establishment of provincial government, a province may not have the resources for law-making required for the scheme outlined in para.8, the national legislation should at first cover both principles and details, but the law should indicate those sections of the law which a Provincial Assembly could amend itself, so as to adapt it to local circumstances; for example, even if national legislation prescribes the qualifying conditions for liquor licensing, the law would enable a Provincial Assembly to add to, or subtract from, these conditions. When a Provincial Assembly wishes to make such an amendment, it should give a month's notice of its intention to the national government.

10. While the constitution or some other legal instrument will set out the division of legislative powers between the national and provincial governments, it may sometimes be necessary or desirable for a government to make a law on a subject which has been assigned to another government. It would therefore be useful to allow one government (either provincial or national) to transfer its law-making power to another. Such a transfer can only be made with the consent of the Provincial Assembly or National Parliament, as the case may be.

11. The laws of a province will come into force on their publication in the *Solomon Islands Gazette*. The national government will not be able to disallow any provincial law on a List A subject; and on any other subject the national government will have to move a motion in Parliament to disallow a provincial law and it will have to have the support of at least an absolute majority of members to be effective.

12. Because different governments will be able to make laws independently, it will be necessary to have some mechanism to decide on the constitutionality of legislation, that is, whether the law is within the competence of a Provincial Assembly or the National Parliament; and to have rules to decide which is the valid law when a national and a provincial law on the same subject are inconsistent. The question of inconsistency is easier to resolve. Except on List A (where only provincial governments can legislate, and where provincial legislation will prevail), the national law will prevail over inconsistent provincial law.

13. This rule about inconsistency will permit only a limited scope for legislation by provincial governments, for, until now, the only effective law-making body has been the national legislature, and it has therefore already covered many areas, often in considerable detail, relating to matters of purely provincial concern. For future legislation, it is proposed that the national government confine itself to matters of principle and leave the details to provincial governments. With regard to existing legislation, the Committee might wish to recommend that a systematic review should be made of it to see

which parts or sections should be declared to be of primarily provincial concern and therefore open to repeal or amendment by a Provincial Assembly. Much work has already gone into identifying which powers and functions can be transferred to provincial governments; and this work should help a great deal in the review of legislation.

14. The question of determining constitutionality is more difficult, especially if it is desired to keep the courts out of the matter. The constitution gives the High Court the jurisdiction to determine whether a person's constitutional rights have been contravened; to determine this the Court would in most cases have to decide whether a law is constitutional. The Committee has already recommended that national and provincial governments should go to court only as a last resort (see Working Paper 7.1 for the relevant issues). It is possible to insist on the same principle when the dispute is about constitutionality of law or inconsistency between national and provincial law, so long as the ultimate right to go to court is preserved. It may be more difficult to qualify the right of an individual to go to court when his constitutional rights are at issue. In order to discourage unnecessary litigation, the Committee may wish to recommend that, without prejudice to the constitution, no individual may go to court to challenge the constitutionality of national or provincial legislation.

15. A law made by a Provincial Assembly will apply only in its province, but effect will be given to it wherever a dispute may arise.

B. EXCLUSIVE OR FINAL PROVINCIAL POWERS

16. It was mentioned in para. 4 above that the subjects in List A could be either exclusive or final provincial powers. If they were *exclusive* powers of provincial governments, then the national government could not make laws about the subjects listed. If they were *final* powers of provincial governments, then the national government could make laws about the subjects listed. But the national laws would take effect only so far as they were not inconsistent with provincial laws: provincial laws would take priority. Provision could be made for Provincial Assemblies to block a national law on a List A subject in its entirety - and without replacement. List A would then be rather like List B: both provincial governments and the national government could make laws, but in List A provincial laws would prevail.

17. If List A consisted of *final* powers, then it would be possible to prevent provincial governments from being pre-empted by national laws and to reduce unnecessary provincial law-making in response to national initiatives by requiring the national government to consult provincial governments before legislating on List A. Existing laws on List A subjects would remain in force until Provincial Assemblies changed them.

18. The main advantages and disadvantages of the two options are as follows:

Option (i): Exclusive powers

Advantages

- national government left out
- inconsistent laws less likely - so fewer court cases

Disadvantages

- uniformity possible only if provincial governments agree among themselves

- gaps might develop because provincial governments cannot decide what to do (transitional provisions could stop some gaps by keeping present laws till provincial governments make their own)

Option (ii): Final powers

Advantages

- national government could take initiative to fill gaps and get uniformity - but provincial governments could still make laws
- provincial governments would have to decide whether to accept or reject national laws - could not defer or ignore issues raised
- would reduce drafting where no need/desire for different provincial laws
- provision for transition from present national laws unnecessary

Disadvantages

- possible inconsistency between national and provincial laws - so legal argument
- national government might force provincial governments to decide about issues they would rather defer or ignore
- might reduce provincial government initiative.

C. PROVINCIAL EXECUTIVE POWERS

19. The guaranteed legislative powers of provincial governments in this scheme are not extensive; and it is unlikely that, at least at first, there will be much scope for provincial governments to legislate on List B subjects. At this stage, more important for a provincial government than legislative power is executive power because it may, in the short run, lack resources for law-making. Moreover, many executive decisions and much policy can be made without a law; and law often has flexibility as to its implementation, so that executive discretion is crucial. If provincial governments had executive powers only in areas where they legislated, their powers of oversight would indeed be small. It is proposed that a provincial government's executive powers should be more extensive than its legislative powers. In many areas, whoever may make policy, it is more sensible and rational to vest executive authority in provincial governments. Vesting increasing executive authority in provincial governments should also help ensure that there is further decentralisation of public servants, for it is through them that much of the administration will take place.

20. It is proposed that the constitution or some other instrument will contain a list of subjects executive responsibility in respect of which is vested primarily in the provinces (List C). In order to retain some flexibility in this matter, it would be unwise to make the list exclusive to provincial governments. The law should make it clear that the presumption is that executive responsibility in the case of List C subjects rests with provincial governments, so that, unless an Act of Parliament vests them expressly in the national government, they should be deemed to be vested in provincial governments. As a general rule, the national government would be expected to justify instances when it proposed to vest executive power for a List C subject in the national government. Some subjects for possible inclusion are agriculture, education, health.

APPENDIX 3.1

FUNCTIONS OF NATIONAL GOVERNMENT MINISTRIES AND COUNCILS/PROVINCIAL GOVERNMENTS

Functions of National Government Ministries, October 1978

Functions of Provincial Governments under the *Local Government Act (Cap.14)*

Office of Prime Minister

Coordination of Ministers

Immigration

Police

Prisons

Public Service

Foreign Affairs

Ministry of Home Affairs

Births, Deaths and Marriages Registration

Citizenship

Elections

Liquor Licensing

Local Government

Public Holidays

1. Planning, control and promotion of development:
 - (a) to make, finance and implement plans for provision of social, administrative and economic services
 - (b) to organise and promote the devolution of responsibility for services and development to committees and community organisations.

26. Administration and legal:
 - (a) to provide management, accounting and executive services for the proper, orderly, economic and accountable discharge of the functions of the Council;
 - (b) to promote the fuller understanding and participation of the public in operation of local and central government;
 - (c) to provide services for the registration of births, marriages and deaths.

Ministry of Education and Training

Education	Primary Secondary Tertiary
Training	Professional Technical General Local Overseas

21. Education:
- (a) to provide education services, boards, committees, schools and institutions in accordance with the *Education Ordinance*, and also scholarships and bursaries.

Ministry of Works and Public Utilities

Bomb Disposal
Electricity
Housing Policy
Government Constructions
Public Works
Roads and Bridges
Water Supply

17. Electricity supplies:
- (a) to plan, construct and maintain electricity supplies in rural areas.
18. Waste disposal and cleansing:
- (a) to operate waste disposal and cleansing services in urban areas;
 - (b) to plan, construct and maintain waste disposal facilities;
 - (c) to promote suitable waste disposal and cleansing arrangements for rural areas.
19. Construction and engineering:
- (a) to plan, construct and maintain such buildings and other works as may be required for the discharge of the functions of the Council;
 - (b) to execute works for the Government as an agent;
 - (c) to contract for the execution of works;
 - (d) to employ such staff, operate such equipment, and purchase and stock such materials as may be necessary for the proper and economic execution of those functions.
20. Housing:
- (a) to plan, construct and maintain houses for Council staff;

Ministry of Works and Public Utilities (continued)

20. Housing (continued)
 - (b) to encourage and promote the construction of houses and home ownership;
 - (c) to promote the production and supply of materials and technical assistance for the building of houses;
 - (d) to act as agent for the British Solomon Islands Housing Authority.
16. Water Supplies:
 - (a) to encourage and assist the provision of clean water supplies in rural areas;
 - (b) to plan, construct and maintain water supplies in urban areas;
 - (c) to establish, maintain and control public wells, springs, drinking containers and bathing places and pools.
11. Roads and road transport:
 - (a) to plan, construct, maintain and control roads, bridges and associated facilities and works;

Ministry of Transport and Communications

Airfields
Civil Aviation
Marine
Maritime Convention and Law
Meteorology
Motor Traffic
Ports
Posts and Telecommunications
Shipping Policy

11. (b) to license and control motor and other vehicles, traffic and services;
 - (c) to promote and operate freight and passenger services;
 - (d) to promote road safety.
12. Ports and Wharves:
 - (a) to plan, construct, operate and maintain wharves, port and harbour facilities.
13. Shipping:
 - (a) to operate shipping and ferry services;

Ministry of Transport and Communications (continued)

13. Shipping (continued)
 - (b) to license the operation of coastal and lagoon services;
 - (c) to provide and maintain navigational aids.
14. Air Transport:
 - (a) to construct and maintain licensed aerodromes;
 - (b) to provide services and act as agents at licensed aerodromes;
15. Posts and telecommunications:
 - (a) to operate postal, wireless and telegraphic agencies,

Ministry of Agriculture and Lands

Agriculture
Animal Husbandry and Veterinarians
Land Use Policy
Lands
Resettlement
Rural Credit
Surveys

5. Agriculture:
 - (a) to provide extension services for the promotion of agriculture and livestock husbandry for cash and subsistence;
 - (b) to promote the control of plant and animal diseases;
 - (c) to promote land conservation.
4. Land:
 - (a) to manage, develop and deal in land held by the Council;
 - (b) to manage such areas of land owned by the Government as the Government may direct, on behalf of the Government and subject to such conditions as the Government may impose;
 - (c) to make, revise and implement plans to promote and control the design, construction, alteration and removal of buildings;
 - (c) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith.

Ministry of Health and Medical Services

Hospitals and Clinics
Medical Services
Public Health

22. Health:
- (a) to safeguard and promote public health including the prevention of and the dealing with any outbreak or the prevalence of any disease;
 - (b) to provide health and medical service
 - (c) to operate clinics, aid posts, dressing stations and health centres;
 - (d) to operate hospitals and referral centres;
 - (e) to establish, maintain and control cemeteries or burial grounds.

Ministry of Youth and Cultural Affairs

Archives and Libraries
Arts and Crafts
Ecclesiastical Affairs
Film Censorship
Measurement (?metrication)
Museums
Scientific and General Research
Social Development and Welfare
Sports
Tourism
Youth

2. Custom, tradition and social change:
- (a) to define and regulate such customs as are not contrary to law and which the Council considers should be so recognised;
 - (b) to devise and implement ways of according respect and positions of influence to traditional leaders;
 - (c) to plan and implement schemes for the preservation and development of traditional skills and knowledge, and to foster those among young persons and others.
23. Cultural affairs:
- (a) to promote cultural activities;
 - (b) to provide reference and lending libraries;
 - (c) to provide museums and public monuments and identify and preserve antique artifacts and sites of historical and cultural interest;
 - (d) to promote the orderly pursuit of sociological and other research.

Ministry of Youth and Cultural Affairs (continued)

9. Tourism:
 - (a) to provide facilities and services for tourists;
 - (b) to promote the orderly and controlled development of tourism.

24. Social development:
 - (a) to promote and assist the development of women's clubs and the fuller involvement of women in social development;
 - (b) to provide welfare, probation and prison after-care services;
 - (c) to promote and co-ordinate the development of sports and other voluntary organisations;
 - (d) to provide and maintain community centres, sports and recreational facilities;
 - (e) to provide relief and assistance to children, young persons, the aged, destitute and infirm.

Ministry of Natural Resources

Environment and Conservation
Fisheries
Forestry
Geology
Mining

6. Fisheries:
 - (a) to provide extension services for the improvement of fish production and marketing;
 - (b) to protect and conserve local fisheries.

7. Forestry:
 - (a) to provide extension services to promote local timber production;
 - (b) to conserve forest for protection of the environment, water catchment, firewood and building materials;
 - (c) to undertake timber production and processing alone or in association with others.

Ministry of Trade, Industry and Labour

Apprenticeships
Business Advisory
Commerce
Cooperatives
Copra Board
External Marketing and Negotiations
Import and Export Licensing
Industry
Internal Marketing
Labour
Manufacturing
Overseas Shipping
Trade and Trade Development
Trade Unions
Weights and Measures
Workmen's Compensation

10. Trade and marketing:
 - (a) to provide storage and transport services;
 - (b) to licence trades, businesses and other occupations;
 - (c) to provide and regulate market facilities;
 - (d) to generally plan and promote the development of trade and marketing alone and in collaboration with other Councils and the Government.
8. Manufacturing:
 - (a) to promote development of manufacturing particularly by Islanders processing local materials.
3. Employment:
 - (a) to provide employment guidance and placement services;
 - (b) to provide advisory and conciliation services to employers and employees.

Ministry of Finance

Accounts
Agents and Agencies
Banking
Exchange Control
Boards of Survey
Central Tender Board
Companies
Credits and Investment
Customs and Excise
Financial Planning
Estimates and Supplementing Provision
Printing and Publications
Solomon Islands National Provident Fund
Statistics
Stock Verification, Stores, Supplies
Taxation
Write Off

Ministry of Law and Information

Information and Broadcasting

Legal

Registrar General

(Attorney General)

(Judicial)

(Office of Parliament)

25. Information:

(a) to provide information services.

APPENDIX 3.2

FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNCILS/PROVINCIAL GOVERNMENTS SET OUT IN THE *PLAN OF OPERATIONS*

National Planning and Financing

- 3.5 Central The making, financing and implementation of national plans, including land use plans, framed to provide for local government participation in planning and implementation.
- Local Making of local development plans and the detailed co-ordination and implementation of the national plan at local level.

Manpower Resources

3.6 *Planning and Training*

- Central Assessing national manpower requirements, establishment of standards and training programmes.
- Local District or island level training schemes, following national standards.

3.7 *Labour Administration*

- Central Policy and legislation, standards and inspection. Arbitration and advisory services.
- Local Agency for central government on request. Employment agency services.

Natural Resources

3.8 *Land*

- Central Operation of the registered tenure system; valuation and conveyancing services; management of government-owned land; promotion of urban physical planning; mapping and land survey, comprehensive land planning services.
- Local Management of designated areas of government-owned land as agent of the government; participation in physical planning and land use planning; ownership and management of land.

3.9 *Agriculture*

- Central National planning, co-ordination, research and specialist services, staff training and assistance to farmer training; management of institutions or projects at national or inter-district level. Provision of capital and recurrent finance to or through local government and provision of staff on secondment.
- Local Extension services, demonstration and farmer training; administration of subsidy schemes and co-ordination with other rural development agencies.

3.10 *Fisheries*

Central Promotion and control of national fishing industry; fisheries protection; technical advice to subsistence and market fishermen, through local government.

Local Extension services; market services at district or island level; fish farming or other production at local level; subsistence fisheries protection.

3.11 *Forestry*

Central Protection of forests, policy and legislation; promotion and control of timber industry; research services; acquisition and management of land for the forest estate; technical services to small-scale operations and local government.

Local Advice to central government on promotion and control of industry; local conservation for water catchment, firewood and building materials.

3.12 *Minerals and Mining*

Central Ownership, control and production of the mineral resources; planning and supervising commercial exploitation; safe-guarding national and local interests in mineral development.

Local Advice to central government on local implications of mineral development; participation in financing and provision of services.

Commerce and industry

3.13 *Manufacturing*

Central Promotion of a wide range of manufacturing industries.

Local Advice to central government on local markets and resources; use of extension services where possible to promote manufactures; purchasing policy to encourage local production.

3.14 *Tourism*

Central Planning, promotion and control of tourist industry; participation in benefits of major investments; provision of limited infrastructure, where justified by benefits.

Local Advice to central government and Tourist Authority on local conditions and control; participation in planning and share of benefits of industry at district or island level; provision of tourist facilities, operation of resthouses in accordance with overall plan.

3.15 *Trade and Marketing*

Central Provision or promotion of the storage, transport and financial infrastructure for marketing. Promotion of local and regional trade specialisation and the localisation of employment and control of firms.

Local Participation in providing storage and transport network. Licensing of traders. Direct operation of trading and marketing in exceptional cases. Provision and operation of local markets; policing of weights and measures legislation.

3.16 *Government credits and investment*

Central Provision of loan finance for local enterprise and the management of government and parastatal investment. Raising loans, bond issues, local capital financing.

Local Advice and guidance to central government on local investment conditions; provision of extension services as managing agents of central loan agency; local agent for central government capital raising; savings bank operations.

Economic Services

3.17 *Roads*

Central Specialist design and high level supervisory services; operation of a heavy plant lease scheme; national transport planning and allocation of capital and recurrent finance in aid of local government.

Local Planning construction and maintenance of all roads and associated bridges, drainage and works; participation in capital and recurrent costs. Operation of road transport, including passenger and freight services. Licensing of vehicles and services.

3.18 *Shipping*

Central Licensing and inspection of vessels and crews; training standards and institutions. Licensing of inter-island services. Operation of a government fleet as defined from time to time. Provision and maintenance of navigational aids. Development of overseas and major ports.

Local Agents for central government in fleet management as requested; operation of own vessels, licensing of coastal services; maintenance of navigational aids as agent for central government. Development of local harbours and wharves.

3.19 *Air Transport*

Central Licensing, control and inspection of aircraft, services and airfields. At international aerodromes, construction, maintenance, fire and rescue services, landing fees. All navigational aids. Capital and recurrent aid to local government.

Local Construction, maintenance and services at internal service aerodromes and at international aerodromes as agent for central government.

3.20 *Postal services and telecommunications*

Central External and internal communications, including postal and wireless services; radio services for marine and aircraft operations; associated technical services.

Local Postal and telegraphic agencies and teleradio stations.

Public Utilities

- Central National electricity planning supply and inspection by Electricity Authority; subsidies for amenity electricity supplies; water supply design and technical services to local government. Capital and recurrent aid to local government.
- Local Rural electrification by arrangement with British Solomon Islands Electricity Authority. Construction, maintenance and management of water supplies in rural and specified urban areas.

3.22 *Construction and engineering*

- Central Professional engineering and architectural design, quantity and supervision services; direct management of major national projects, or joint central-local projects. Operation of plant and vehicles pool for short or long leases. Capital and recurrent aid to local government and provision of staff on secondment.
- Local Execution or supervision of normal construction programme, using central government's high-level services as required. Collaboration with central government on joint projects, or national projects located in council areas.

Social Services

3.23 *Education*

- Central National policy and syllabuses standards, national institutions and teacher training; technical and professional training; capital and recurrent aid to local government and provision of staff on secondment.
- Local Direct management of primary schools and rural vocational training. Further functions subject to the current review of educational policy.

3.24 *Health*

- Central National policy, legislation, standards, staff training and registration. Principal referral and teaching hospitals; specialist services. Central procurement of supplies. Major campaigns and centre recording and reporting machinery. Co-ordination of measures against major health threats. Capital and recurrent aid to local government and provision of staff on secondment.
- Local Provision of all rural health services and hospitals. Public Health and preventive measures. Collaboration with central government in campaigns and epidemiological measures.

3.25 *Other Social Services*

- Central Capital and recurrent aid to local government and provision of staff on secondment. National library and museum planning and operation where necessary. National institutions.

Local Other social services at district and island level. Aid to voluntary organisations. Operation of local libraries, museums, young people's hostels.

3.26 *Housing*

Central National policy and legislation; implementation through Housing Authority and as largest employer.

Local Byelaws, site development and management to fit housing needs; as employer, conformity with national policy.

Administrative Services

3.27 *General Administration*

Central Establish and train an administrative cadre sufficient for central government needs and for secondment to managerial posts in local government. Provide specialist training for all levels of local government and provision of seconded staff. As local government becomes more firmly established, central government representation at island or district level is principally responsible for liaison, co-ordination and local application of national policies.

Local Provision of normal management services using seconded and direct-employment staff. Assume the primary role in effective day-to-day government at the island or district level.

3.28 *Treasury*

Central Accounting services for central government including machinery for aid to local government. Assistance in training and procedures for local government.

Local Accounting services for local government and agency functions for central government when balance of field activities makes this desirable.

3.29 *Audit*

Central Provision of a local government audit service, supervision and sanctions where necessary; audit answerable to central government legislature.

Local Self-audit procedures in the accounting system and regular submissions to outside audit.

3.30 *Customs and Excise*

Central All functions.

Local Agency in remote areas on request.

3.31 *Direct Tax*

Central Policy, legislation, implementation of national schemes.

Local Taxation by basic rate and other rates under *Local Government Ordinance*. In due course, review with central government the relationship between central and local government taxation.

3.52 *Law and Order*

Central Prevention and containment of crime and maintenance of internal security. Provision of uniformed and plain clothes police on national basis and operation of a national prison service and prisons. Provision of professional legal department, available to central and local government. Operation of an independent judiciary and an integrated courts system with adequate protection for customary rights.

Local (not applicable in Honiara). Maintenance of law and order in accordance with the *Local Government Ordinance*. Financial and staffing support for native courts including reporting and enforcement staff. Receive fines and fees of such courts. Financial and other support for customary land appeal court.

3.33 *Information and Broadcasting*

Central National coverage by printed papers and radio. Assistance to local government with campaigns or displays.

Local District or island newsletters. Local entertainment and education. Reporting of events to central government news service and participation in features.

Source: Solomon Islands 1973:20-27.