A Prologue to Development:

Establishing the legitimacy of the rule of law in post-conflict Solomon Islands

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A thesis

submitted to the Victoria University of Wellington in
fulfilment of the requirements for the degree of
Master of Development Studies

Victoria University of Wellington

2014

Abstract

The rule of law forms the bedrock for societal and institutional organisation in the Western world. International actors see its establishment in developing countries as a means to facilitate wider development work and an end in and of itself. However, development of the legitimacy of the rule of law is not well understood, especially in post-conflict environments where it is most lacking. Despite the best efforts of international interventions, the rule of law is often not in the paramount position it requires: it lacks legitimacy amongst the people. To understand why this is the case there is a need for a better understanding of how interventions develop legitimacy in the rule of law. This research develops that understanding and asks the question ‘how does the contemporary peacebuilding agenda develop the legitimacy of the rule of law in post-conflict states?’

To do this the research undertakes a case study investigation of a particular intervention: the Regional Assistance Mission to Solomon Islands. Discourse and content analyses, carried out on interview transcripts and a wealth of documentation, reveal the different forces exerted by the intervention to develop legitimacy in the rule of law. These are interpreted through a particular lens: a modified version of Luke’s three faces of power that also draws on concepts of governmentality. A four-dimensional definition of legitimacy also allows for greater analytical depth.

The research shows that the contemporary peacebuilding agenda can do some things very well. It is especially effective at the initial response to crisis. It is after the establishment of this basic security/performance dimension of the rule of law that interventions begin to develop their institutional/process dimension through capacity building. Capacity building divides into three levels: the individual, the organisation, and the state. It integrates the rule of law across the state edifice and establishes it as a foundational element of the system. However, the most important aspect of building legitimacy is the development of shared beliefs, as it is these that establish what is ‘true’ amongst a society. Contemporary peacebuilding interventions portray the rule of law as intrinsically legitimate and the correct, rational way of organising society. This idea permeates through their

structures, discourses, and methods. However, the rule of law is not intrinsically legitimate. It is a culturally constructed concept that in many countries is in opposition with alternative ways of organising society and resolving conflict. Developing legitimacy in the rule of law is then a struggle between competing organisational systems. Such conflict jeopardises gains made by interventions, as the rule of law is fighting an uphill battle against other internalised, and often more locally reverent, norms. If it is to establish in post-conflict environments, the rule of law and competing systems need to interact to produce a locally relevant, hybrid, conception of the rule of law. One that is recognisable to all sides, but unique to the context. This leads to peace.

Acknowledgements

Firstly, special thanks goes to my brother Luke Kiddle, his wife Esther, and their children in Solomon Islands for all their help and kindly letting me live with them while in the field. Without them, this research would not have been possible. I am also greatly appreciative of everyone who took the time to talk to me both on and off the record in Solomon Islands. All these conversations were greatly useful, whether for data or for contextual understanding.

In New Zealand, I would like to thank my supervisor Professor John Overton for the time he gave me, his feedback, and his help in untangling several difficult knots. It is hard to imagine how a student-supervisor relationship could go more swimmingly. My gratefulness also goes to the rest of my family, especially my sister Eve and her partner Alex for the overpaid work they gave me that allowed me to pay my rent. Finally, and most importantly, I would like to express my gratitude to my partner Susan Rawles. Her support and kind words were of continual benefit and helped me through some stressful moments.

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Chapter One: Why the Rule of Law?

“The rule of law underpins achieving the mission of the United Nations: to advance peace, human rights, and development. In our rapidly changing unequal, and, at times, dangerous world, implementing the rule of law is critical for establishing the justice, stability, and inclusive growth required for sustained human development.”

(Helen Clark, 2012, p.1)

The rule of law is at the heart of Western civilisation and is a chief export of the development industry. Its role as the principle way to organise society is an ancient one: according to Aristotle, people are the most terrible of all animals when they live without law and without justice and the best when they do. It is the rule of law that mediates the relationship between the state and the individual, it controls behaviour to protect the many from the few and, sometimes unfortunately or, protect the few from the many. The rule of law permeates all aspects of society and is a foundational element of Western institutions, including those with a development focus, such as NGOs and government aid programmes. Not only does the rule of law form a central part of how they interpret issues and see problems, they are also dependant on it to function due to the rules-based environment they operate in. It is understandable then why developing the rule of law is one of the priority tasks in what are some of the great works of collective human ingenuity (or arrogance) of our age: the active, purposeful development or reconstruction of a modern state over a comparatively short time scale in a post-conflict environment: peacebuilding.

The UN Secretary-General defined the rule of law as:

“A principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. *It requires, as well, measures to ensure adherence to [its] principles.*”

[Emphasis added] (2004, p.4)

The rule of law is more than the laws themselves. It is a way of seeing the world that places it as the supreme way of organising society and oneself. It is this worldview, this internalisation of the rule of law and its principles, which is the most powerful measure to ensure adherence to its tenets. This requires legitimacy, something that the rule of law is often thought to intrinsically have (Anderson, 2012).

However, intellectual movements like post-structuralism and other ideas associated with the linguistic turn, have questioned the supremacy of the rule of law. Investigations of alternative epistemologies and the effects of language on how we see the world have led to the rejection of ‘metanarratives’, grand theories about how the world is structured. Authors such as Brooks (2003) reveal the rule of law as such a metanarrative: it is a culturally constructed idea and something that is no more ‘true’ than any other way of ordering society. With this exposed, the development of the rule of law becomes a struggle of different beliefs of the true and legitimate way to organise society and manage conflict. The purpose of this research is to investigate this struggle for legitimacy.

The research seeks to uncover how the contemporary peacebuilding agenda develops legitimacy in the rule of law in post-conflict states. To do this, the following sub-questions need answering:

- What are the different strategies used to develop legitimacy in the rule of law?
- What effects does the legitimacy of the intervening institution have?
- What are the long-term implications of how the contemporary agenda operates on sustainability and development?

These questions are answered by using a focused case-study approach on the Regional Assistance Mission to Solomon Islands (RAMSI), which began work in 2003 after civil unrest and the near total collapse of the Solomon Islands state. Yet, before we delve any deeper into this, there is a need for a further positioning of the research within peacebuilding and development.

Peacebuilding and Development

Traditionally peacebuilding and development have not been closely aligned and the exclusivist position sees them as two very different processes (Smoljan, 2003). However, there are calls for bringing the two closer together, with people such as Smoljan (2003), Rossier (2011), and Leest et al. (2010) working on how this can be done. The High-Level Panel of Eminent Persons, discussing the post-2015 development agenda, also recognises the need to bring peacebuilding and development together (Attree, 2013). In a report published in May 2013, they promote a development paradigm based on five transformative shifts. One of these is to “Build peace and effective, open and accountable institutions for all” and states that the development community must:

“recognise peace and good governance as core elements of wellbeing, not optional extras ... Responsible and legitimate institutions should encourage the *rule of law*, property rights, freedom of speech and the media, open political choice, access to justice and accountable government and public institutions.”

[Emphasis added] (UN, 2013, p.9)

It is this inclusivist position, as termed by Smoljan (2003), which this research takes. It views peacebuilding and development as two sides of the same coin and that both cannot achieve lasting success without the other. The European Peacebuilding Liaison Office (2011) explains that at their core, both development and peacebuilding are about strengthening resilience and the capacity within society for it to cope with change and solve problems. For peacebuilding to be sustainable, it requires a wider process of development to address the underlying drivers of conflict and to ensure it does not remerge. Conversely, development cannot be successful without the initial peace that peacebuilding brings. It provides the conditions necessary for progress and mainstream development institutions to operate in the country, one of which being the rule of law. This relationship makes peacebuilding just the first stage of development and development just the second stage of peacebuilding.

Structure

Chapter Two and **Chapter Three** provide the main context for the research. Chapter Two looks at the history of Solomon Islands from the pre-colonial period until RAMSI first entered the country in 2003. Drawing on the country's rich history develops a picture that explores what factors shape the present day Solomon Islands. Chapter Three introduces RAMSI and provides an overview of why it intervened, its actions in the country, what it looked like as an organisation, and what issues developed. Particular attention is paid to academic discussions of how RAMSI operated.

Chapter Three discusses the wider literature of relevance to the research. This literature review is divided into three parts. The first draws on international academic literature to portray the dominant contemporary peacebuilding agenda, described as the liberal peace consensus. After sketching what this agenda looks like, the section moves on to discussing its main criticisms and ends with the leading ideas for improvement. Section two takes a close look at the rule of law. It reveals it to be a culturally defined phenomenon and by no means intrinsically legitimate. Along with the criticisms this brings, there are important issues with the development of the rule of law in post-conflict environments to consider. Finally, a thorough investigation of the concept of legitimacy provides a working definition for the research and establishes the main theoretical lens used to unpick its development: a combination of Lukes' three dimensions of power and governmentality.

Chapter Four presents the research methodology. In any research, especially research concerned with discourse, it is important to discuss the epistemology and positionality of the researcher. Chapter Four begins with such a discussion, first focusing on the post-positivist epistemology and then moving on to the implications of my own positionality. A presentation of data collection and analysis methods follows. The chapter concludes with key ethical considerations and the clearing up of some potential ambiguities.

Having established the required precursors, **Chapter Five**, **Chapter Six**, and **Chapter Seven** present the research findings. In conjunction with the

information presented in the literature review, they undertake a discussion of how peacebuilding in Solomon Islands has influenced the legitimacy of the rule of law. To give order to such a complex picture, peacebuilding in Solomon Islands is divided into three main periods, each represented by a chapter. While broad dates are given, these demarcations are relatively arbitrary, the transition from one to the other was always gradual, and the shift never complete. The first section deals with the initial restoration of law and order when RAMSI first arrived in Solomon Islands. It also looks at the implications of the enabling legislation that made the intervention possible. The subsequent chapter investigates the statebuilding actions undertaken after law and order was restored, namely the work of in-line staff and staff in capacity building roles. The discussion of the third phase of peacebuilding in Chapter Seven focuses on the significant shifts in RAMSI that occurred in response to issues raised about the intervention in 2006/2007 and some particular prominent discourses.

The broader findings from the discussion are drawn together in **Chapter Eight** to address the research question and conclude the thesis. By describing the different strategies used to develop legitimacy in the rule of law, unpicking the effects of the intervening interventions legitimacy, and assessing the long-term implications of what was done, this chapter takes what has been learned from RAMSI and draws conclusions on the liberal peace consensus and wider processes of development.

Chapter Two: Situating the Case Study

Research cannot be separated from the context and history of the research site. This chapter presents the key contextual and historical factors that are of relevance for the thesis. Chronologically this chapter takes its end at the arrival of the Regional Assistance Mission to Solomon Islands (RAMSI) in 2003.

Solomon Islands is a diverse country with an interesting history, characterised by patchy colonial rule and a checkered post-independence past. It is comprised of around 1000 islands, with a total land area over 28,000km² (Allen, 2012; Clark and Levy, 2012). The population is growing by 2.3–2.5 percent per annum and 85 percent of this population lives rurally (Cox et al., 2012). According to the Solomon Islands Government (SIG) 2009 census the population was 95.3 percent Melanesian, 3.1 percent Polynesian, 1.2 percent Micronesian, and 0.3 percent other (mostly Chinese and Europeans) (2009a). The country is noted for its cultural diversity, for example having over 64 living languages (Fraenkel, 2004). For the purposes of this short background on Solomon Islands, its history has been broken into four main periods:

- Pre-colonial period: Everything until annexation in 1893
- Colonial rule: From 1893 until independence in 1978
- Post-independence government: From independence until 1998
- Civil unrest, or the ‘Tensions’: From 1998 until 2003

A person’s background, their positionality, shapes how they think and interpret issues (Willis, 2007). Consideration of the historic forces that have shaped Solomon Islands is therefore important to the research, as it influences peoples’ actions and what they perceive as legitimate. Solomon Islands culture, *kastom* (unique governance and dispute management processes (World Bank, 2013)), and communities are dynamic and constantly evolving (Brigg, 2009). They absorb and respond to forces generated in all periods of the country’s history. However, it is from the pre-colonial period that characteristic elements of Solomon Islands emerge (Boege et al., 2009). It is to these pre-colonial roots we now turn.

The Pre-Colonial Period

Before annexation by colonial powers, the Solomon Islands Archipelago consisted of a collection of distinct communities, living in relatively close geographic proximity. These people started arriving over 30,000 years ago when the sea level was lower and the archipelago consisted of fewer and larger islands. Sea level rise around 10,000 years ago caused the geographical separation of these people. The populations then begin to diverge culturally, greatly contributing to the differences present today, especially regarding language (Moore, 2004). This has resulted in *kastom*, which while similar, can have very significant differences. One example is how inheritance operates. Inheritance is mainly matrilineal on Guadalcanal, Isabel, Makira, and the Russell Islands, while on Malaita, Choiseul, Rennell and Bellona, Tikopia, and the Shortland Islands it is predominantly patrilineal (Fraenkel, 2004). Trade existed amongst the different communities. However, it was people's relationship with their local community, *kastom*, and history that defined their identity (Brigg, 2009). Politically, it was the 'big men' who held power in communities. These are non-hereditary leaders (though these do exist) whose success lies in their ability to mobilise resources, attract followers, and bring renown (Bennett, 1987; Braithwaite et al., 2010). These factors combined meant that Solomon Islands and the concept of a Solomon Islander did not exist until colonial powers divided the map of the South Pacific.

The Colonial Period

Great Britain annexed the southern regions of Solomon Islands in 1893, after pressure from Australia over fears that other colonial powers would claim the area (Dinnen, 2009). The northern section of present day Solomon Islands was originally claimed by Germany, with Britain gaining control of this area in 1899 (Fraenkel, 2004). The period of colonial rule was characterised by neglect. Britain called for the colony to be self-sufficient in funding, resulting in a lack of financial support for the colony. As the British High Commissioner in Solomon Islands put it in 1974:

“Up to 1952 this remote collection of scattered communities was expected to pay for its own administration. The staff of this administration was minute.”

(Luddington, 1974, p.2)

These limitations led to a state that was far weaker and had less penetration than local systems and *kastom*. The colonial administration did attempt reforms to bring the state and Solomon Islanders together. For example, the 1945 plan aimed to delegate substantial authority to local councils, including control over revenue. Unfortunately, the lack of financial support and the skeleton crew of administrators also hamstrung these initiatives (Campbell, 2007).

World War Two had a significant impact on Solomon Islands and shook attitudes towards colonial rule. In his 1974 report, Luddington stated that:

“... the shock of the sight of modern warfare and the abundant technology of the allied forces in this area must have been enormous and has affected Solomon Island attitudes ever since. There appears to be in the minds of a great many Solomon Islanders the hope, however much suppressed, that some of riches seen between 1942-45 will again sail into Solomons, descend from the skies or come out of the ground.”

(1974, p.2)

World War Two brought modernity to Solomon Islands, creating a view into the West and greater demand for what modernity could bring. The *Maasina Ruru* movement emerged, in part from the experiences of Solomon Islanders in World War Two. It sought to restructure indigenous society, obtain independence, improve living standards, and create a new social order based on *kastom* (Truth and Reconciliation Commission (TRC), 2012). A significant aspect of the colonial period was the increased inter-island migration it fostered. For example, after the destruction of the old capital Tulagi in Central Province, Malaitan immigrants were brought to Guadalcanal to assist in the building of the new capital, Honiara (Campbell, 2007). Prior to World War Two Malaitans also engaged in a largely coercive (via indenture contracts) plantation labour system, resulting in additional migration (TRC, 2012).

Overall, the lack of financial support and the limited capacity of the colonial administration in Solomon Islands resulted in a relatively light colonial experience. This minimised the negative elements of colonial rule experienced by other indigenous peoples. Unfortunately, it also meant there was little initiative to develop a unified front to oppose colonialism. Prior to independence, there was little drive for independence amongst Solomon Islanders and little ideological cohesion across the country (Bennett, 1987). Bennett argued that because of this, when a Britain nervous of the changing world economy thrust independence on the country, Solomon Islands was ill prepared to meet the requirements placed on it.

Post-Independence Government

Certain significant trends that characterise the post-independence Solomon Islands also highlight the main causes of the Tensions from 1998 to 2003. It is important to note that these trends still largely apply to the present day Solomon Islands, as many of the underlying causes of the Tensions have yet to be fully addressed (Dinnen and Haley, 2012). These trends can be broken into the following issues:

- Inter-island migration
- The distribution of resources
- The delivery of justice

Tying these three matters together is an important cross cutting theme: the failure of SIG to respond adequately to these problems (Wienders, 2003). It is this cross cutting matter that we must first consider.

The National Parliament of Solomon Islands is a Unicameral Legislature, modelled after the British Westminster Parliament. Elections are held every four years, there are 50 constituencies, and the 'first-past-the-post' electoral system is used (SIG, 2007). Politics in Solomon Islands is characterised by the influence of 'big men', and a lack of nationalism (Dinnen, 2009). Party politics has traditionally been very weak, as politicians are strongly tied to their locality, and

the most pressing concern regarding re-election is appeasing these local constituencies (Ride, 2010). In Solomon Islands, this means securing development projects and resources for the locality as:

“Living mostly in rural villages, bonds of kinship, shared languages and ties to ancestral land, along with moral frameworks drawing on *kastom*, and Christianity, provide the basis of individual identities and allegiance rather than abstract notions of “citizenship” or “nationalism”.”
(Dinnen, 2009, p.72)

Dinnen (2009) is describing the *wantok* system, where people and politicians are tied to their *wantok*. Literally translated as ‘one talk’, this means one’s local community as defined by shared language and *kastom* (Moore, 2004). Brigg (2009) defines two levels in the *wantok* system. The first, and most intimate, ties together people in their immediate community or village. The second relates to the broader linguistic group. The ‘big men’ system of political organisation described earlier, also strongly permeates the Solomon Islands political system (Braithwaite et al., 2010). This translates to these big men vying for election into central government (Boege et al., 2009). It is often very difficult for elected representatives to meet the expectations placed on them and this results in a high rate of MP turnover. Generally, in Melanesia it is common for around 50% of MPs to lose their seats at election time (Liloqula and Pollard, 2000). This highly fluid political nature makes long-term decision-making difficult. Politicians must focus on their immediate electoral survival, rather than shaping the long-term future of the state and meeting the needs of some abstract unit known as the ‘nation’.

Despite the focus amongst politicians on providing for their locality, there has been little penetration of state services in Solomon Islands outside of the capital and selected provincial centres (Braithwaite et al., 2010; Kabutaulaka, 2005). Generally, the state has a minimal presence in the lives of rural Solomon Islanders, who form the majority of the population (Dinnen, 2009; Barcham, 2009). This, joined with the difficulties in decision-making arising out of the Solomon Islands political environment, meant the government was unable to properly respond to the issues developing in the post-independence era. Richmond (2011) describes how the Tensions emerged because of this

fundamental government failure, which proceeded to undermine any semblance of a social contract. To understand properly both this era of Solomon Islands and the present day, we must also look at the other significant issues.

Issues concerning inter-island migration are probably the most frequently cited in discussions of the Tensions. As mentioned above, migration was prevalent during colonial rule where economic opportunities were concentrated in provincial centres, especially in Honiara and its surrounding plains. This migration continued in the post-colonial era (Allen, 2012). Guadalcanal and Malaita are two of the largest islands in the country, as shown in Figure 1. According to the 2009 census, Guadalcanal has a population of 158,222 (65,609 of which live in Honiara) and Malaita has a population of 137,596. Population pressure and a limited supply of fertile agricultural land on Malaita have contributed to Malaitan migration (Fraenkel, 2004).

Figure 1: Map of Solomon Islands (Vidiani, 2013)

The main area where problems arose from this migration was on Guadalcanal, where people indigenous to the island felt that Malaitan immigrants were

dominating employment, especially in Honiara (Moore, 2004). Related concerns were that Malaitans were not paying proper respect to Guadalcanal *kastom*, and illegally taking land (Liloqula and Pollard, 2000). These concerns were formally submitted to SIG in the *Bona Fide Demands of the Indigenous People of Guadalcanal*, first in 1988 and again 1999 (2012). While this discontent was mainly on Guadalcanal, similar attitudes toward Malaitans were also present in the Western Province (Fraenkel, 2004).

Solomon Islands was, and still is, characterised by very unequal distributions of wealth (Dinnen and Haley, 2012). Claims of the inadequate distribution of resources are especially pertinent to the collection (or lack of it) and uneven distribution of revenue from extractive industries. The Solomon Islands economy relies on primary industries, namely fishing, mining, palm oil, copra, cocoa, and, especially, logging (Morgan and McLeod, 2006). Most frequently targeted are those dealing with the logging industry, where there are allegations regarding the mismanagement of revenue. Firstly, there are serious problems inhibiting the collection of revenue, including under-reporting of log exports, deliberate misinterpretation of tree species, export duty evasion, and the general prevalence of duty remissions, especially before 1996 (Liloqula and Pollard, 2000). Added to this are issues of corruption, where logging companies bribe politicians to obtain tax remissions. Logging companies also approach individuals, to purchase communally owned land from which the individual profits, but not the community (Hameiri, 2012). These issues described by Hameiri (2012), along with the influence of the wider process of globalisation, have been linked to the breakdown of social order in some areas as leaders are seen to be abusing their authority for private gain (Allen et al., 2013).

These corruption issues are wider than just those dealing with the logging industry. The country's branch of Transparency International has called corruption in Solomon Islands 'systemic' (Radio New Zealand, 2013). In the 2013 Transparency International *Global Corruption Barometer*, 52% of respondents felt that political parties were corrupt or extremely corrupt, 53% felt this about the civil service and, 85% about the police. The factors facilitating corruption worsened over time. Clark and Levy (2012) describe the deterioration of the

Auditor General's Office from the mid-1990s due to a lack of resources and general neglect. More generally, a lack of government capacity is seen to be a driving force behind corruption (Barcham, 2009).

Allen et al. (2013) discuss how this breakdown in social-order has led to growing issues of law and order. Generally, in Solomon Islands, "Justice, policing, access to land, and social support is still mainly provided through customary, community, and village means" (Richmond, 2011, p.128). The breakdown in social order and mechanisms of dispute resolution has led to increased problems, especially regarding substance abuse, land disputes, development project issues, marital disputation and domestic violence (Allen et al., 2013). The weak local court system in Solomon Islands does not help these problems. Issues regarding staff shortages appeared as early as 1985 and a process of centralisation undertaken in the 1990s further weakened local courts in the provinces (Evans et al., 2011). By the 1990s, local courts were falling into disuse, and they ceased operating almost entirely with the breakdown of government services in the Tensions (Goddard, 2010). Compounding these issues in the post-Tensions period is the continued distrust of the Royal Solomon Islands Police Force (RSIPF), due to the corrupt and illegal behaviour of some officers during the unrest (Dinnen and Haley, 2012). Understanding why this is the case requires a further look at the Tensions.

The Tensions

Civil unrest in Solomon Islands began to emerge in late 1998 after a speech by the Guadalcanal Premier Ezekiel Alebua in which demands were made of the government including:

- S\$2.5 million in compensation for 25 alleged murders on Guadalcanal
 - Compensation for the use of Honiara as the capital
 - A halt to inter-island migration
- (Fraenkel, 2004)

The *Bona Fide Demands of the Indigenous People of Guadalcanal* (1999) put these demands, and more, forward. After this speech the Guadalcanal Revolutionary Army, later renamed the Isatabu Freedom Movement (IFM) began harassing and intimidating settlers from other islands. These settlers were mainly those from Malaita living in the rural and peri-urban areas to the east and west of Honiara (Allen, 2012). Over the months, this campaign began to involve murder, rape, and the eviction of around 20,000 settlers by July 1999 (Kabutaulaka, 2005). The majority of these evictions occurred between May and July 1999, with over 70% of those evicted coming from rural wards in the northern areas of Guadalcanal (Allen, 2012). On 14 June 1999, a four-month state of emergency was declared and special powers were given to police to use violent force (Moore, 2004). Efforts by SIG to undertake peace negotiations were largely unsuccessful, not helped by the lack of attendance from any IFM members (Wielders, 2003).

Malaitans saw the government's response to the IFM as inadequate and by 2000 the Malaita Eagle Force (MEF) had emerged as a reaction (Fraenkel, 2004). This force had backing from members of the RSIPF who undertook a raid on the national armoury (Goldsmith and Dinnen, 2007), resulting in the MEF being generally better equipped than the IFM. Violence between the two groups intensified with unconfirmed numbers being killed (Kabutaulaka, 2004). On 5 June 2000, the MEF forced the resignation of the Prime Minister Ulufa'alu (Allen, 2012; Kabutaulaka, 2005). Following this 'coup', violence continued until the signing of the Townsville Peace Agreement on 15 October 2000.

This agreement ended the open conflict, but it marked a transition towards a state of general lawlessness (Wielders, 2008). Members from both militia groups, members of other factions that developed, and unaffiliated individuals continued to commit crimes, which would result in the death of over 200 people by the time RAMSI intervened (TRC, 2012). Two significant crimes were the murder of ten Kwaio (Malaitan) men by Harold Keke and his followers on the Weather Coast, and the decapitation of a Guadalcanal man at the main Honiara market in November 2001 (PIFS, 2004). This period was characterised by extensive extortion of the government through the guise of compensation payments, which placed the government on the verge of bankruptcy (Kabutaulaka, 2005). The near

bankruptcy of the government and the general economic paralysis caused by the conflict put SIG on the verge of collapse (Wainwright, 2003).

Conclusion

Solomon Islands is a very diverse country with a complex history. Presented here are just the most pertinent elements of pre-intervention Solomon Islands. It is important to reiterate that the time-periods chosen are arbitrary and the factors described in each flow through the others until the present day. Especially important trends that continue are the prevalence of *kastom* and *wantokism*, the weakness of the state and the concept of the nation, and the importance of big men in politics. The more modern historical factors affecting the country were organised by looking at the main issues that led to the Tensions. More than any other period these apply to the modern day, as many of these underlying factors have yet to be addressed. Concerns over inter-island migration, the distribution of resources, and the delivery of justice continue to be an issue. Of course, the most well-known element of Solomon Islands history is the civil unrest, known as the Tensions, which occurred between 1998 and 2003. This conflict put SIG on the verge of collapse and becoming a 'failed state'. It was the fear of this happening that led to the eventual deployment of RAMSI at the request of SIG.

Chapter Three: The Regional Assistance Mission to Solomon Islands

“The Regional Assistance Mission to Solomon Islands came with a purpose, determined to assist a neighbour in need. Its arrival, shortly after the first rays of dawn struck the tarmac of Solomon Islands Henderson International Airport on Thursday 24 July 2003, was an event that has changed the course of a nation’s history.”
(RAMSI, 2013a, p. 5)

While the above quote does read like propaganda, it is undeniable that the Regional Assistance Mission to Solomon Islands (RAMSI) was a significant event. It was an Australian and police led intervention, with a significant military contingent. It brought in over 2000 personnel from all across the Pacific, mainly from Australia (RAMSI, 2013a; Goldsmith and Dinnen, 2007). It has received considerable attention internationally, both positive and negative. This chapter highlights the key aspects of the intervention and delves into the academic discussions on RAMSI.

The Decision and First Action

On 4 July 2003, the Governor-General of Solomon Islands, Sir Reverend John Ini Lapli, formally requested assistance from the Australian government. Three documents were then decided on that formed the legal framework of RAMSI; these were the *Facilitation of International Assistance Act 2003*, the *Facilitation of International Assistance Notice 2003*, and the *RAMSI Treaty*. RAMSI was officially mobilised on the 24 July 2003 with personnel from across the Pacific (SIG, 2009b). Under these documents, the Solomon Islands Government (SIG) retained judicial, legislative, and executive authority (Fullilove, 2006). The decision to intervene was a significant change in the Australian position on the conflict, as the Australian Government had refused assistance when SIG requested it earlier. After the fact in 2004, the then Special Coordinator (the highest civilian perception within RAMSI) Nick Warner explained that 2003 was the right time because the conflict had reached a ‘mutually hurting stalemate’,

while an intervention in 2000 would not have had a broad base of public support in country (Warner, 2004a).

The focus on global terrorism after September 11 and the perceived risk that failed states could become havens for terrorist organisations was one of the main drivers for the intervention (Hameiri, 2007; Kabutaulaka, 2005; Wienders, 2008). Regarding this, then Australian Prime Minister John Howard (2003) justified intervention stating that:

“A failed state would not only devastate the lives of the peoples of the Solomons but could also pose a significant security risk for the whole region ... Poor governance and endemic corruption provide the conditions that support criminal activities.”
(n.p.)

From this, it is clear to see that the justification for intervention was geopolitical rather than humanitarian. The immediate restoration of law and order was the primary concern of RAMSI upon deployment. This has remained its main focus (Jeffery, 2013). According to the Pacific Island Forum Secretariat (PIFS) (2004) within 100 days of intervention, RAMSI had made significant progress in restoring law and order: recovering over 3700 firearms and making 340 arrests by the end of 2003.

Moving Towards Statebuilding and Rising Discontent

Upon the immediate restoration of law and order, RAMSI began its second phase, a process of state and nation building with a focus on capacity building (Hameiri, 2007). A consolidation period that lasted from 1 January 2004 to 31 December 2004 linked these two phases. This period was characterised by a focus on strengthening the rule of law, legislative reform and creating the conditions for a market economy (Morgan and McLeod, 2006). The 2009 *Partnership Framework* sets out the following goal for RAMSI:

“A peaceful Solomon Islands where key national institutions and functions of law and justice, public administration and economic management are

effective, affordable and have the capacity to be sustained without RAMSI's further assistance.”
(SIG, 2009c, p.6)

This involved working on three main pillars: law and justice, economic governance and growth, and the machinery of government (SIG, 2009c). The law and justice pillar involved the transformation of the Royal Solomon Islands Police Force (RSIPF) into a “modern, effective and independent police force which has the full confidence and support of the community” (RAMSI, n.d.a). RAMSI also worked closely with Solomon Islands judicial and correctional systems to build capacity and “ensure all Solomon Islanders have access to strong, fair and efficient justice” (RAMSI, n.d.b). A further transition occurred on 1st July 2013, where only the policing component of RAMSI remained, while the rest of its work moved over to bilateral aid programmes (Coppel, 2012).

RAMSI continued to maintain significant support amongst Solomon Islanders. Some 86% of respondents in the RAMSI (2013) People's Survey said they supported the presence of RAMSI. However, Allen (2009) says this is misleading, as the majority of respondents to the survey are rural and may not fully understand the role of RAMSI. This statement is strengthened by evidence in the 2011 People's Survey itself that amongst certain rural participants in focus groups “there was a general a [sic] lack of awareness of the role and responsibilities of RAMSI” (RAMSI, 2011, p.97). Growing dissatisfaction with RAMSI also became apparent in the 2006 riots in Honiara, in which around 50 RAMSI staff were injured and RAMSI property was damaged (O'Connor, 2007). Morgan and McLeod (2006) describe how grievances about political decision-making, often done behind closed doors and with large sums of money changing hands, partially triggered the riots. Unfortunately, due to the nature of the agreement with intervention being dependant on permission from SIG, RAMSI was tied to the government both legislatively and in the eyes of the public (Morgan and McLeod, 2006).

The 2006 riots, and the subsequent attacks on RAMSI by then Prime Minister Manasseh Sogavare, were a moment where many different concerns with RAMSI came to a head. An issue that has been especially important was the allegations

that RAMSI had behaved as a shadow government and usurped sovereignty from SIG (Goldsmith and Dinnen, 2007). Another significant issue was allegations that RAMSI was not meaningfully participating and engaging with Solomon Islanders in their activities. For example, RAMSI staff had their food imported specifically. They also frequently congregated together in selected areas, a phenomenon that one local termed 'Lime Lounge Syndrome' (Braithwaite et al., 2010): the Lime Lounge being a local café frequented by development professionals. After the 2006 riots, RAMSI made real efforts to respond to these issues. Work was done to establish jointly agreed targets for the three pillars, along with other initiatives such as a joint consultative forum (O'Callaghan, 2008; Richmond 2011). RAMSI also developed its community outreach programme to access the voices of Solomon Islanders (Coppel, 2012). Despite these efforts made by RAMSI, it is still important to consider all the issues to understand the effects of them on legitimacy in the rule of law.

Discussions Regarding RAMSI

Braithwaite et al. (2010) provides a comprehensive discussion of how RAMSI acted as a shadow government. They argue that, with its extensive inline positions, and the fact that RAMSI had assumed the monopoly on the legitimate use of force, RAMSI became a parallel system to SIG. Over time, this issue led to increased resentment of RAMSI by members of the political and bureaucratic elite, despite RAMSI's popular support (Goldsmith and Dinnen, 2007). Morgan and McLeod (2006) retell how members of parliament felt marginalised from the decision-making process: an example given by members being how appropriation bills passed by the government were then modified by RAMSI staff in the Department of Finance. The power held by these inline positions, and also the advisors, led Kabutaulaka (2008) to suggest that the intervention looked more like a neo-trusteeship or shared sovereignty model, rather than the stated and legislated subservience of RAMSI to SIG.

The 2009 SIG committee report into the RAMSI intervention looked at these issues around RAMSI acting as a parallel government and found that:

“There have in the past been justifiable concerns that the work of RAMSI has not been well coordinated with the policy objectives and priorities of the Solomon Islands Government. That is not to say that RAMSI deliberately set out to operate as a parallel government in Solomon Islands as some have alleged. Nevertheless, there have justifiably been sovereignty issues raised.”
(SIG, 2009b, p. XV)

The report went on to explain that the committee took it that these concerns had largely been addressed by new mechanisms for co-ordination and the *Partnership Framework* document agreed on between RAMSI and SIG in 2009.

In their 2010 book Braithwaite et al. also discuss two fundamental, but understandable, flaws in RAMSI’s approach to capacity building in the RSIPF. When the Participating Police Force (PPF) would first arrive in an area and restore law and order, Solomon Islanders would praise them, rather than the RSIPF members on patrol with the PPF. The PPF would accept this credit to the detriment of the RSIPF. By not putting the RSIPF at the forefront, they were not given an opportunity to rebuild the public perception of them. The other flaw in capacity building arose out of PPF members not being as experienced in training others as advisors. When their counterpart would make a mistake, be told by the advisor how not to make the mistake, and then make the mistake again, eventually the PPF officers would simply take over and do it themselves. Peake and Brown (2005) also discusses this issue. They explain that police officers might not be the best people to train other police, as they do not design their training to the particulars of the local environment, leading to things being lost in linguistic and cultural translation.

A different criticism is that RAMSI’s focus is too state-centric. Dinnen (2009) raises the point that within that state focus there are limits to the capacity building approach. He explains that the Solomon Islands state suffers from not just capacity related issues, but also issues arising out of the local and global forces that have shaped its form. Too often has the work of statebuilders not taken into account the particular history and culture operating within the state (see Chapter Four). With respect to the RSIPF, Peake and Brown (2005) highlight how in capacity building efforts the differences in operational cultures has been

underestimated, leading to things being missed out or misunderstood. The importance of differences in cultural backgrounds across all aspects of RAMSI's work is also emphasised by Goldsmith and Dinnen (2007). Unfortunately, writing in 2006, Morgan and McLeod described a belief permeating all pillars of RAMSI that "culture gets in the way" (p.423).

These concerns about the reluctance to engage with local culture are linked to wider concerns (expressed in literature about peacebuilding and described in more depth in the proceeding chapter) that the state being developed by RAMSI is too focused on the Western definition of a 'modern' state. The argument is that RAMSI concentrated too strongly on Western concepts of what a state is or should be (Morgan and McLeod, 2006). This focus ignored considerations that perhaps this type of state is inappropriate for Solomon Islands and marginalises important local non-state institutions that are a source of resilience (Hameiri, 2012; Fry and Kabutaulaka, 2008). For the first point Nanau (2008) highlights the view that the Westphalian state that RAMSI is rebuilding has already failed the Solomon Islands once, in the Tensions, and focusing just on it is setting the government up to fail again.

With respect to the marginalisation of local institutions and systems, the quintessential example discussed in literature is the *wantok* system and its negative framing by peacebuilders. Fukuyama (2008) states that state and nation builders in Solomon Islands:

"have to confront the wantok system, which to many seems like a unique and exotic cultural practice, and a huge obstacle to the country's modernisation. It is indeed an obstacle, but is hardly unique or exotic in human history."
(p.18)

As explained earlier, the *wantok* system ties politicians strongly to their local constituency, resulting in them often being elected on their ability to provide for that constituency. This undermines a sense of the national good. An example given is that it can cause local loyalties to outweigh corruption charges brought under an unfamiliar Western system (Goldsmith and Dinnen, 2007). Yet Brigg

(2009) explains how such a description of the *wantok* system undermines the many benefits it can bring. Specifically regarding law and order, it builds resilience, provides an important source of social capital, and provides avenues for reconciliation-based conflict resolution (Richmond, 2011).

A concern raised in the literature, linked to criticisms of RAMSI's reluctance to engage with the non-state sector and its state-centrism, is that if these issues are not addressed, peacebuilding efforts in Solomon Islands will only ever be a band-aid solution (Morgan and McLeod, 2006). In Solomon Islands, the state often has a secondary role in conflict resolution, with customary methods being dominant and seen as quicker and more reliable (Kabutaulaka, 2005; Richmond, 2011). Peake and Brown (2005) point out that the focus on formal policing in Solomon Islands:

“rubs against ingrained allegiances to mechanisms for conflict resolution and restorative justice, which often offer solutions that appear more expeditious and have greater legitimacy.”
(p.727)

The strong Western rule of law approach pursued by RAMSI is at its worst crowding out indigenous methods of restorative justice, or at the least ignoring a potentially useful avenue for maintaining law and order (Peake and Brown, 2005; Goldsmith and Dinnen, 2007). Regarding the period of civil unrest, RAMSI's prosecution of perpetrators of serious crimes has been criticised, as it “only served to hamper attempts at reconciliation” (Jeffery, 2013, p.14). Solomon Islands is largely a relationship-based society. Because of this, if there is to be lasting peace, relationships need to be repaired in an effort to address the underlying issues that caused the Tensions (Kabutaulaka, 2005).

In response to calls to engage with the non-state sector, and especially calls to focus on restorative rather than retributive justice, RAMSI officials frequently refer to this being outside RAMSI's mandate (Dinnen, 2008; Hameiri, 2012). The discussion in Chapter Six addresses the mandate in more detail. It is important to note, as Aqorau (2008) does, that it is not for RAMSI to address all the

underlying causes that led to the Tensions and Solomon Islanders are the ones best suited for the task of nation building.

Moving forward from this criticism, some authors have discussed an alternative option for state and nation building: a path where a middle ground between Western and indigenous systems and institutions is sought and a hybrid state developed. Brigg (2009) describes the potential of the *wantok* system to be mobilised to develop an emergent national identity. Diversity and the myriad of inter-community connections built via the *wantok* system form the basis of this. One could see how these networked connections would be useful for restorative justice, as it would generate greater social pressure. Richmond (2011) describes the need for a horizontal, rather than a vertical political system. In such a system, the state connects with *kastom*, chiefs, and churches and works with them, rather than in competition. These reflect the wider calls for hybridity discussed in the next chapter. Generally, they call for a colonisation of the state edifice with indigenous ideas and institutions. Systems developed in such a way would have considerably more buy-in and legitimacy amongst locals (Aqorau, 2008).

Conclusion

In July 2013, RAMSI marked its ten-year anniversary. All aspects of it bar the PPF have shifted over to bilateral aid programmes, and it has moved into what is expected to be its final stage. It is too late for RAMSI to change now, but the processes and stages it went through still provide useful insight into development and peacebuilding as a whole. The academic discussion around RAMSI is still applicable to other peacebuilding operations and wider development work, which are usually an intervention of some sort. Most importantly for this thesis, RAMSI still provides an important case study to investigate broader development/peacebuilding trends and contribute to the international discussion on peacebuilding, the rule of law, and legitimacy.

Chapter Four: Peacebuilding, the Rule of Law, and Legitimacy

Having established both the history of Solomon Islands and the main discussions regarding RAMSI, this chapter turns to the wider academic literature relevant to the research. This is divided into three main parts, each addressing a core element. The first section looks at the wider debates around international peacebuilding and delves into the dominant agenda of the time: the liberal peace consensus. This agenda, with its institutional focus, is at the core of RAMSI, and an investigation of the international consensus, how it treats sovereignty, issues raised about it, and methods for improvement are therefore of important consideration. Section two looks closely at two interdependent actions undertaken in peacebuilding: the development of the rule of law and security sector reform. Similar to the first section, the methods for their development, issues, and ways forward are investigated. These topics all influence the legitimacy of the rule of law. Finally, the third section provides a detailed look into the concept of legitimacy. It develops the definition used in the research and presents the main theoretical lens used to unpick the different strategies used to develop legitimacy.

The Contemporary Peacebuilding Agenda

This modern peacebuilding agenda, as characterised by external interventions based on the liberal peace consensus and the pursuit of institutional statebuilding, has received considerable academic attention. This section delves into this literature. International interventions are utilised when a state is seen as being a failed or failing state. What exactly a failed state looks like is variable, but the common agreement is that “a state fails when it is unable to provide basic social, economic, legal, and political services and safeguards to the population at large” (Langford, 1999, p.64). The dominant approach for modern peacebuilding is termed the liberal peace consensus by Richmond et al. (2011) and the nuances of it are discussed below. Central to this consensus is the redefinition of sovereignty. While this has allowed interventions to function without contradicting international principles, it has also led to some important concerns

requiring discussion. Another concern of pertinence is the utilisation of Western conceptions of the state that disregard the local context. However, before discussing these issues, a look at the international consensus on peacebuilding as presented in internationally agreed upon documents is needed.

The Form of Peacebuilding

The international consensus on peacebuilding places great stock in the establishment of international goals and frameworks, much like the wider relationship between development, the MDGs, and documents such as the *Paris Declaration*. The current framework for peacebuilding initiatives can be seen in the work of the International Dialogue on Peacebuilding and Statebuilding (ID). This forum aims to shape international assistance by creating an action plan, framework, and objectives for international and national intervention (ID, 2013). The participants in ID have agreed to use the Peacebuilding and Statebuilding Goals (PSGs), set out in ‘The New Deal’. These are:

“Legitimate Politics – Foster inclusive political settlements and conflict resolution
Security – Establish and strengthen people’s security
Justice – Address injustices and increase people’s access to justice
Economic Foundations – Generate employment and improve livelihoods
Revenues & Services – Manage revenue and build capacity for accountable and fair service delivery”
(ID, 2011, p.2)

The New Deal is based on the 2005 *Paris Declaration on Aid Effectiveness*, the *Principles for Good International Engagement in Fragile States and Situations* (2007), the *ACCRA Agenda for Action* (2008), the 2010 *Dili Declaration*, and the 2011 *Monrovia Roadmap* (New Deal, 2013). Central to these documents is the process of capacity building that translates to a state-centric, institutionally-focused approach.

The type of peacebuilding promoted above is more comprehensive, larger in scope, more intrusive, and focuses more on liberal democracy and neoliberal economic reforms, than earlier approaches (Roberts, 2008). Richmond et al.

(2011) describe this as the liberal peace consensus, which consists of four elements:

- The victor's peace: Top-down, coercive, imposed peace. Based on military interventions focused on security and building the Westphalian/Weberian state.
- The institutional peace: Militarised, top-down, coercive peace. Based on international administrations focused on state institutions and building liberal market orientated states.
- The constitutional peace: Democratic, partially top-down, partially bottom-up, cooperative peace. Based on consent and consensual negotiations with the local elite, focused on the democratic framework and building peace and liberal states.
- The civil peace: Just, durable, bottom-up, needs based and rights-based peace. Based on local integration and bottom-up peacebuilding .

With its focus on security, institutional, and constitutional reform the first three types of peace dominate the modern peacebuilding agenda (Richmond, 2009). Implicit in the first two elements is the argument described (but not endorsed) by Andrieu (2010), that interventions building a liberal state must first act illiberally to establish the state's monopoly on violence and ensure proper democratic process.

The liberal peace consensus forms a continuum with the victor's peace on one side and the civil peace on the other, with a given intervention falling somewhere between these two points (Richmond, 2006). Banks (1987) describes two main models in the development of the liberal peace consensus. The first he terms the conservative model. It focuses on developing peace through institutional development and building liberal market economies (Richmond, 2009). It represents a strong focus on the victor's and institutional peace elements. The second Banks (1987) describes as orthodox. It is based on international interventions working in partnership with the host government and engaging in a realist political discourse to obtain legitimacy and undertake its work (Heathershaw, 2008; Richmond et al., 2011). It represents the adoption of the

principles of good governance into peacebuilding and places greater stress on the constitutional peace. It is still focused on building a liberal-democratic state through its institutional work (Rubin, 2006), and therefore contains a significant element of the institutional peace. The PSGs described earlier embody this model. As we shall see this approach does not engage much with the civil peace, and has been criticised for this.

The Redefinition of Sovereignty

A central aspect of the liberal peace consensus is how it treats sovereignty, seeing it not as an absolute but as a continuum. Peacebuilding was largely placed on hiatus during the Cold War and one of the main reasons for this was the view that sovereignty was absolute (Wheeler, 2002). For example, the trusteeship system established in the 1945 UN Charter, which aimed to assist countries in decolonisation and help countries towards self-governance, embodied this idea (Langford, 1999). Protecting the sovereignty of the recipient country was paramount (Chandler, 2006) and Article 78 of the UN Charter (1945) states that:

“The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.”

However, an absolute conception of sovereignty is at odds with any intervention that assumes any authority, as under the Westphalian conception of the state sovereignty is dependent on authority (Krasner, 1999). Therefore, any intervention negates sovereignty. In the 1990s, interventions were mainly justified in terms of humanitarian justice (Ayoob, 2002). These were in direct conflict with the dominant perception of sovereignty and that expressed in the UN Charter (Chandler, 2006). The issues inherent in this became apparent in Bosnia. UN peacekeepers were mobilised to undertake humanitarian aid (Helton, 2000), but were hamstrung by the sovereignty conditions in the UN Charter and prohibition of “the threat or use of force against the territorial integrity or political independence of any state [in the UN]” (UN, 1945, Article 2). Ayoob (2002) postulates that if the UN mission had been willing to be more active and

even contradict the UN charter, a great deal of bloodshed could have been avoided. These issues necessitated a change in the definition of sovereignty.

Over time, a new conception of sovereignty developed; one that sees it as a continuum rather than an absolute. A state's sovereignty is dependent on its performance: if the state does not meet certain performance criteria international actors will intervene and subvert a degree of sovereignty (Schwarz, 2005). Zaum (2009) describes five elements in which these performance criteria fit:

- Administrative effectiveness
- Human rights
- Democratisation
- Rule of law
- Establishment of a free market economy

If the state fails to perform in these areas, its authority will be ceded to other actors that can. International actors taking authority in any of the five elements subverts sovereignty. This new conception of sovereignty as a responsibility to meet certain criteria is set out in the 2001 *The Responsibility to Protect Report*:

“It is acknowledged that sovereignty implies a dual responsibility: externally to respect the sovereignty of other states, and internally, to respect the integrity and basic rights of all the people within the state... Sovereignty as responsibility has become the minimal content of good international citizenship. “

(International Commission on Intervention and State Sovereignty, 2001, p.8)

The report goes on to explain that if states do not meet their internal obligations, external intervention, even contrary to the external responsibility of respecting sovereignty, is justified. While, such a justification seems to only apply to the human rights element of the five set out by Zaum (2009) the five are interrelated. For example, Collier (2007) explains how economic growth through a free market economy is vital for reducing human-rights-violating conflicts.

Denying Accountability

This redefinition of sovereignty, integral to liberal democratic peacebuilding, paradoxically rests its authority in systems that are undemocratic and not accountable to the people. Chandler (2006) explains how the redefinition of sovereignty has eroded ties between those in power and systems of accountability; the politicians (who have largely ceded authority) are subject to the accountability mechanisms, not the staff of the intervention. Through its focus on conditional sovereignty, peacebuilding has become “practically imperial” (Heathershaw, 2008, p.620). Additionally, by focusing on institutions it has become a largely technocratic process. Through obtaining legitimacy from the host government and focusing on building institutions via capacity development the intervention itself becomes depoliticised, as it becomes part of the impersonal state operations. As put by Heathershaw (2008), statebuilding is a highly political endeavour. This is hidden by its technocratisation, which disguises its political motivations behind a veil of ‘neutral’ scientific and technical expertise. In this process, the work done becomes the realm of technical experts, something that the general citizen cannot meaningfully contribute to (McKinlay et al., 2013). Chandler (2006) describes the statebuilding exercise as successful in its goals. He terms this ‘empire in denial’. This new empire is denied through the distancing of external actors from the political sphere and the needs of accountability, while still allowing international actors to pursue their agendas (Chandler, 2007). The portrayal of peacebuilding as a technical exercise in statebuilding is central to this.

In Bosnia, this empire in denial has had its ultimate expression in the successful mobilisation of the rhetoric that Europeanisation is a civilising process, and that the adoption of the seemingly apolitical reforms necessary for EU membership is the proper course of action (Chandler, 2006; Jeffery, 2008; Richmond et al., 2011). The goal of EU membership (and the associated reforms) has become perceived as the true course of action. However, the transfer of sovereignty involved with adopting the necessary reforms destabilises the state due to the loss of accountability and public involvement. In Bosnia, this led to increasing accusations that the international community was behaving like a ‘European Raj’ (Belloni, 2012).

Focus on the Western Modern State

The other main criticism of the liberal peacebuilding agenda is that it is too focused on the development of a Western modern state and this undermines the civil peace. Practitioners ignore cultural underpinnings and non-state systems (Bendaña and Chopra, 2013). Richmond et al. (2011) describe the main priorities of the current peacebuilding agenda to be the development of security, the Westphalian sovereign state, human rights, the market, and the rule of law. Another example of the priorities is Zaum's (2009) performance criteria outlined earlier. The modern Westphalian state is a product of centuries of incremental development that was dependant on the specific geographic, historic, and economic conditions that made it possible (Clements et al., 2007; OECD, 2010). Consideration must also be given to the centuries of on-going warfare in Europe that characterised state development, as states had to agree to develop accountability mechanisms for the right to extract taxes to fund warfare (Fukuyama, 2007; Tilly, 1985). Statebuilders who do not acknowledge this and do not consider the local circumstances risk creating institutions that do not meet local needs, are not seen as legitimate by the population and are therefore ineffective.

We see the reasons for this in path-dependence theory. Here initial dynamic processes generate self-reinforcing outcomes in which a change in direction becomes increasingly difficult, due to barriers becoming ingrained in political institutions (Belloni, 2012). Essentially, history matters. When looking at the impacts of path-dependence on development and institutional reform, Prado and Trebilcock (2009) found that path-dependence, and the importance it places on context, reduces any blueprint best-practice approach of institutional development to sub-optimum levels. Additionally, they found that due to the high cost of shifting a pre-determined course, ambitious and holistic reforms in the political, bureaucratic, and legal areas carry significant risks of failure. This translates into challenges for the wide reaching and holistic reforms pursued under the liberal and institutional focus of contemporary peacebuilding.

Challenges that are compounded when statebuilders ignore the local contextual factors affecting path-dependence.

An often-ignored contextual factor is that in many developing countries that have been the recipients of international interventions, the state has never enjoyed a position of unbridled superiority. The state has had to share its legitimacy, authority, and capacity regarding the legitimate use of violence, distribution of welfare, and political representation with a plethora of local institutions (Boege et al., 2009). Peacebuilders ignore these important contextual factors at their peril. In the case of Bosnia and general EU peacebuilding, Richmond et al. (2011) state that it has “become increasingly concerned with security, rights, democratisation, rule of law, civil society and marketisation as they are externally, not contextually, defined” (p.464). Interventions that ignore these contextual factors and focus only on Western definitions risk becoming paternalistic, racist, and exploitative (Crawford, 1993). Additionally, Clements et al. (2007) postulate that without proper conventions or institutions to guide economic, political, and social behaviour, locals can become caught between a weak formal system and an informal system undermined due to its exclusion. All this destabilises the state and limits the chances of success of any peacebuilding exercises.

One of the best examples of the problems with excluding the local level occurred in Timor-Leste. On 15 September 1999, the UN Security Council authorised intervention in the country due to a deteriorating humanitarian situation and reports of widespread human rights violations (Cotton, 2001). This conflict arose due to the destabilising effect of the Indonesian withdrawal from the country and the collapse of the governing apparatus (Chopra, 2002). The initial UN mission’s focus was on peace-maintenance, but this soon evolved into a mission of top-down, technocratic statebuilding and governorship (Richmond, 2011). Wallis (2012) explains that the liberal peace model (constituting democratisation, the rule of law, human rights, and free-market economies i.e. the liberal peace consensus) followed too rigid a model, and did not engage with locals. This has led to the neglecting of local participation, favouring international interests over local ones, and the development of insecure institutions (Stanley, 2007; Wallis, 2012). As suggested by Chopra (2002), the UN intervention “gave birth to a failed

state” (p.999). Stanley (2007) describes how despite the presence of local groups working to establish schools, rebuilding houses, and providing health after the conflict, some UN workers proceeded like these groups did not exist. It is examples like this that give credence to Chopra’s (2002) assert that the exclusion of the local level has hindered efforts to strengthen the state.

This failure became apparent during the crisis in 2006, in which an estimated 150,000 people were displaced, at least 37 were killed, the rule of law broke down, property was destroyed, and crowded refugee camps formed due to conflict between the police and armed forces (Stanley, 2007; Vieira, 2006). During this conflict a new societal division emerged, previously unknown to international actors, that of *Loromonu* (east) and *Loprosae* (west), in which ideas of the police as western and the military as eastern solidified (Simonsen, 2009). Youth disenfranchised over rising poverty also exacerbated the conflict (Stanley, 2007). The reluctance of international actors to engage with local systems (facilitated by the accountability gap allowed by the redefinition of sovereignty and technocratisation) led to the development of institutions not legitimate to locals. Writing in 2011, Richmond stated that church, family, or international organisations were the first point of call, not the state. This problem can only be solved by the involvement of local systems and the development of a hybrid system (Boege et al. 2009). If the UN staff working in Timor-Leste had been more flexible in their approach and more willing to engage meaningfully with locals perhaps the *Loromonu-Loprosae* divide may have been identified earlier and better resolved. At the least, law and order institutions, if better tailored to local contexts, may not have collapsed.

Hybrid Systems

In responding to the Western-centric focus of the contemporary peacebuilding agenda, authors such as Roberts (2008), Quigley (2009) and Andrieu (2010) call for an approach that works with local systems and institutions by building state-society relations from the grassroots. Otherwise, locals are made to feel as if “they are being pushed to conform to outside notions of government and justice” (Talentino, 2007, p.153). These calls represent an emerging trend in the literature

regarding peacebuilding: calls to work towards the development of hybrid systems of governance. Meagher (2012) defines hybrid governance as a term that describes how in fragile states the formal state apparatus operates alongside informal actors in the provision of services and the exercise of authority. Such an approach gives greater agency to indigenous peoples, gives them more acknowledgment, and makes them more visible. It is consistent with the right of indigenous peoples to self-determination as guaranteed in the *United Nations Declaration on the Rights of Indigenous Peoples* (2008). The reality is that hybrid governance has emerged informally in many fragile states (Richmond, 2011; Wallis, 2012).

However, Meagher's definition in referencing non-state processes as running alongside state processes focuses on an ends-based definition of hybridity: individuals are able to choose from state and non-state processes to get the best solution for them. Wallis (2012) terms this 'forum-shopping' and hypothesises that it may undermine the uniformity of justice institutions and the rule of law, as they require uniform and consistent application. This can be seen in Somaliland where non-state conflict resolution systems engaged with weak state law and justice mechanisms to strengthen traditional authority and existing clan-based power structures (Bendaña and Chopra, 2013). Rather, authors such as Belloni (2012) and Wallis (2012) discuss hybrid systems as where the state and non-state systems meet, colonise each other, and develop institutions unique to the local circumstances. Studying hybrid systems can give important insight into peacebuilding dynamics: using them can lead to a more robust and lasting peace (Belloni, 2012).

An example of such a system is the village courts of Papua New Guinea, established by the *Village Courts Act* of 1973 (Scaglione, 1990). There are over 1000 courts and they service 82 percent of the country's rural area (Westermarck, 1991). The magistrates of these courts are local people who have a good knowledge of custom, and the community trusts them to deliberate fairly (Evans et al., 2010). These courts are legislated to apply custom in their deliberations and de-emphasise the role of government, instead focusing on procedural informality (Westermarck, 1991; Scaglione, 1990). They have been largely successful in their

mandate despite some concerns, such as a lack of definitions regarding local custom (Evans et al., 2010). This shows the benefit of hybridity, especially in delivering services to remote areas such as the mountainous rural areas of Papua New Guinea. Additionally, allowing local level, minor, disputes to be resolved at local level courts in customary ways leaves higher-level courts free to deal with other matters.

The questions that are discussed on hybridity often relate to what degree (and how) these relationships should be formalised, and what the strengths and weaknesses of such an approach are (Wallis, 2012; Clements et al., 2007). Regarding the question of how to formalise hybrid governance Clements et al. (2007) focus on three areas that need addressing to bring together the state and non-state:

- Substitution: Identification of equivalent state and non-state systems
- Complementarity: Identification of areas where non-state and state overlap
- Incompatibility: Identification of state and non-state approaches that conflict

In such a structured approach to bringing the two sides together, a key role of any intervention would be that of facilitating the required discussions between the state and the non-state. However, Belloni (2012) reminds us that hybridity is a system of tensions and antagonism between the actors. He goes on to say that, it is from this very antagonism that can lead to new ways of resolving conflict. Naturally, this creates a very complex set of negotiations when working towards hybridity.

Peacebuilding Summary

The liberal peacebuilding agenda, as seen in the liberal peace consensus, has established itself as the paramount contemporary peacebuilding method. Contained within it though the civil peace is the possibility for bottom-up approaches based on local knowledge. However, the focus is on institutional

development, capacity building, and developing a liberal democratic peace by working with the host government. The redefinition of sovereignty from the absolute conception embodied in the UN Charter established after the Second World War, made this possible by solidifying the legitimacy of international interventions. However, this redefinition has been criticised as separating those in power (those in the intervention) from accountability systems. The technocratisation of peacebuilding further distances the intervention from accountability measures and hides its political nature. The states built are also criticised as too focused on the Westphalian modern state. This is at the exclusion of local level institutions, context, and people; leading to the development of weak institutions not seen as legitimate by the populace they are meant to serve. Moving forward from these criticisms, some authors focus on the importance of developing hybrid systems of governance. These approaches give more agency to local people and are hoped to lead to a more robust peace.

Security Sector Reform and Strengthening the Rule of Law

While this research focuses on the development of the rule of law, international interventions also pursue another mutually dependant process. Together, it and the rule of law are seen as integral for establishing the conditions for democracy, peace and the state to flourish: this is security sector reform (SSR) (Schwarz, 2005; Faundez and Janse, 2012). Therefore, we cannot understand the rule of law without considering SSR. As Schröder and Kode (2012) explain, they are interdependent and the development of one cannot succeed without the other. This section looks at this relationship closely, seeking insight into the dominant approaches for their development, issues with this, and suggestions for improvement.

The Relationship

The state that fails to protect its citizens calls into question its entire existence (Goldsmith, 2002). Consequently, essential to the development of the state and the rule of law is the establishment of the monopoly on violence to a legitimate

institution (Stromseth et al., 2006; Beswick, 2009; Andrieu, 2010). SSR is about forming its core components into such legitimate and democratically managed bodies (Schröder and Kode, 2012). SSR aims to restore the monopoly on violence to the state. It creates the preconditions for the rule of law by allowing the enforcement of compliance (OECD, 2010). However, the security sector also requires the rule of law. The OECD (2007) defines the security sector as including:

- Core security actors: Armed forces, the police, and intelligence services
- Security management and oversight bodies: Ministries of internal affairs, financial management bodies, and public complaints commissions
- Justice and law enforcement institutions: The judiciary, corrections, and traditional justice systems
- Non-statutory security forces: Private security companies and private militia

The establishment of the rule of law gives legitimacy to these components and is especially central to the judicial and law enforcement aspects (Lundy and McGovern, 2008). Stromseth et al. (2006) define the rule of law as:

“A state of affairs in which the state successfully monopolizes the means of violence, and in which most people, most of the time, choose to resolve disputes in a manner consistent with procedurally fair, neutral, and universally applicable rules, and in a manner that respects fundamental human rights norms”

(p.78)

As indicated in the above quote, implicit in the idea of the rule of law is the internalisation of the concepts it represents, especially concerning how the decision-making process is undertaken (Nagan and Jacobs, 2012). With internalisation people no longer question the right of the rule of law and its appendages to primacy, and impose self-regulation to align with its principles. Therefore, the achievement of this internalisation is essential for ensuring the legitimacy of the security sector.

The Process

One of the core components of any intervention is developing a strong and efficient police force free from corruption. A key element of which is bolstering police visibility and presence, this requires providing equipment and financial support to the police (Albrecht and Buur, 2009; Hill et al., 2012). Furthermore, Goldsmith (2002) states that a lack of resources also contributes to corruption and low police moral, making equipment and financial support all the more important. Another important factor is public image. Celador (2005) describes a reform undertaken for the police in Bosnia and Herzegovina. International actors initiated a police certification process, some of the criteria including education, training, and the absence of war crime convictions. The aim of this was to restore the legitimacy of the police by restoring its image. However, establishing the rule of law and addressing all the elements of SSR described by the OECD (2007) requires a broad, whole of government approach (Schröder and Kode, 2012).

The concepts of SSR and the rule of law are intertwined and there is considerable overlap in the approaches used to pursue both (Faundez and Janse, 2012; Heupel, 2012). As explained above the establishment of the rule of law helps give legitimacy to the security sector (Lundy and McGovern, 2008). However, strengthening the security sector creates the preconditions for developing the rule of law (OECD, 2010). In practice, coercive force through the military and the police achieves the initial security sector strengthening in post-conflict environments. Andrieu (2010) described this, as seen in the previous chapter, as the perceived necessity of illiberal acts to establish liberal democracy. This creates the preconditions needed to develop the rule of law, which gives then legitimacy to the security sector.

The development of the rule of law and a rules-based environment within the state itself amongst the politicians and civil service is also key target. In discussing the importance of the rule of law for establishing a state's right to sovereignty, Ghani et al. (2005) explain "it is the constitution of the state itself through rules and its continuing subjection to them that marks the routinisation

of the rule of law” (p.9). Rotberg (2004) describes an important element of this, where one of the most important tools of statecraft is using rules to control how civil servants, politicians, and the public can interact with the state apparatus. This is establishing the ‘rules of the game’, or a rules-based environment within the state. Gilman (2005) highlights how the development of codes of conduct can achieve this. They help guide and induce behaviour in developing countries, help make ‘ethical’ behaviour a habit, and they make an important statement about the commitment of the institution to professionalism. Inherent in this are the methods used to fight corruption. The development of proper checks and balances to combat corruption is essential to strengthening the judiciary and governance reform (Cao, 2007). If the rule of law is to be applied to wider society, the state needs to be a model example of how to abide by its principles.

Finally, Wippman (2010) sets out what is broadly involved with developing the rule of law, it requires:

“fostering effective, inclusive, and transparent governance structures; creating fair and independent judicial systems and responsible security forces; reforming and updating legal codes; and creating a widely shared public commitment to human rights and to using the new or reformed civic structures to resolve problems, rather than relying on violence or self-help.”

(Wippman, 2010, p.366)

This shows no shortage of other tasks for the intrepid peacebuilder. The last point set out by Wippman above regarding changing public commitments is probably the most difficult to achieve. This is because it requires challenging potentially internalised norms (a component not recognised by international actors (Brooks, 2003)), and rearranging state-society relationships. This may be especially challenging if corruption is an issue, as perceived corruption can severely undermine efforts to build legitimacy in institutions (OECD, 2011). This creates another task in the development of the rule of law: the separation of rule of law-based institutions from political processes described by Weingast (2010).

Criticisms

A key group of criticisms of SSR and building the rule of law is the apparent reluctance to diverge from Western definitions and conceptions of institutional forms. The core argument is that interventions take for granted how the institutions they are promoting developed over centuries of state-society interactions and bargaining in particular geographical, political, economic, and social circumstances (OECD, 2010; Schröder and Kode, 2012; Weingast, 2010). They do not give due regard to local contextual factors. What is worse, Bendaña and Chopra (2013) explain that integral to the liberal peacebuilding agenda regarding the rule of law, is the assumption that “once rule of law institutions were functional, other forms of justice and security would cease to exist” (p. 45). This assumes that the rule of law has an intrinsic right to be the paramount conflict resolution mechanism: it has some degree of intrinsic legitimacy that is recognised. However, in their research into gender equality, Pistor et al. (2010) show that this assumption does not hold and the authority of the rule of law is not globally legitimate. The rule of law is a cultural conception, its development depends on changing societal norms, and to assume that its development is intrinsically good and beneficial is imperialistic (Brooks, 2003). Essentially, this is the argument described in the previous chapter regarding peacebuilders giving insufficient attention to contextual factors, but applied to the SSR and rule of law arenas. Such a contextually blind approach can have three main negative impacts on conflict resolution as described below.

First, not taking into account local political factors can facilitate corruption (OECD, 2011). Returning to Timor-Leste, Berg (2012) discusses how the weak institutions developed by the UN administration (weak for reasons described in the previous chapter) allowed the FRETILIN party, when it took over, to manipulate the weak institutions for their own favour. Of particular relevance, they were able to manipulate the military and police forces, contributing to the divide between the two described earlier and undermining the rule of law. Secondly, ignoring local contextual factors can severely hinder the ability of rule of law-based approaches to address certain cultural issues (Quigley, 2009). Discussing the role of women in Somaliland, Bendaña and Chopra (2013) show that the mainstream model focused on legal institutions has not improved the

position of women. There is little knowledge of state law and justice systems, and non-state systems based on cultural norms mainly deal with conflict. Some of these cultural norms are contrary to international human rights. For example, dealt with at the non-state level, in some places a virgin woman who is raped may be made to marry her attacker. Not engaging with cultural factors makes these issues invisible, because they do not make it to a formal court setting. Thirdly, the ignoring of local contextual factors implicitly privileges international notions of justice and legal process. Arenhövel (2008) questions whether the precedence given to these approaches is helpful, as it may force out more appropriate local methods. Another concern of this legalistic approach is that:

“The overriding focus on redressing direct injustices against individuals (in the form of human rights abuses, war crimes, and crimes against humanity) tends to leave the injustices that caused the conflict untouched.”

(Lundy and McGovern, 2008, p.274)

By going in and pursuing what internationally is considered the main drivers of conflict, the real local factors are ignored. Conflict is always unique and there is no blueprint for how it can be solved. Highlighting this, Jeffrey (2011) explains that the highly legalistic approach and the opinions of legal experts have become prioritised over ideas of social healing and actors outside the legal area.

Schröder and Kode (2012) put forward a significant criticism regarding the relationship between SSR and building the rule of law. Their argument is that strengthening security institutions and the promotion of mechanisms of legitimate control implicit in strengthening the rule of law are incompatible. This is because “the former aims to strengthen a state’s enforcement capacities, while the latter seeks to restrict them” (p.31). This is reinforced by Berg (2012), who states that especially in conflict-affected countries tensions between SSR and rule of law objectives can lead to human rights abuses, as the justice system cannot keep pace with arrests, or enforce security forces to follow regulations. The holistic nature of SSR and rule of law promotion also creates problems due to a lack of a significant knowledge base in both areas (Heupel, 2012). This means

that it is difficult to see the myriad of connections that require consideration when developing holistic and integrated approaches.

Lastly, due to SSR and the rule of law being dependant on each other, there is a core contradiction. As explained, a functioning and legitimate security sector is necessary to establish the rule of law (OECD, 2010), while Lundy and McGovern (2008) explain that the rule of law is necessary for the security sector to be legitimate. If the security sector is not legitimate, it will only ever be coercive and unable to achieve meaningful internalisation of the rule of law, meaning the security sector cannot be legitimatised. As an example, it was discussed above that corruption undermines legitimacy in the rule of law. However, Mendonça and Fonseca (2012) show how the rule of law is the main tool used to fight corruption. How then can the rule of law be established to fight corruption if corruption undermines it? The traditional way round this, described earlier, is the use of coercive force to undertake liberal acts through illiberal means. This top-down strategy is vulnerable however, as it is highly visible and coercive. This is the weakest form of power (explained more shortly). Its high visibility makes it vulnerable to opposition, highlighting a weak point in the development of the rule of law, one potentially exploited by vested interests.

Bottom-up Approaches and Restorative Justice

Similar to the argument around hybrid systems portrayed earlier, the inclusion of bottom-up and restorative justice practices are frequently talked about in developing a more appropriate place for the rule of law. A bottom-up approach involves local people at all stages of the justice process and resolves conflicts in ways that are applicable to them and their culture. It focuses on community needs and is committed to social justice (Richmond and Franks, 2008). Truth telling, participatory involvement, and putting communities at the centre of justice form the basis of such an approach. It can get at the meat of inter-community conflict, understand community dynamics, and generate discussion (Lundy and McGovern, 2008). Bottom-up approaches place greater emphasis on cultural norms and their creation and reproduction. Brooks (2003) recognises that it is only through working with these norms that the rule of law can be developed, as

the rule of law is but a group of cultural norms itself. Mixing of these norms can create a locally relevant form of the rule of law. An idea that is often central in this is the principle of restorative justice.

Restorative justice involves a range of informal approaches that aim to meet the needs of both the offenders and victims. This often involves community-wide involvement, the restoration of balance, and the restoration of relationships (Delfau and Duff, 2011; Latimer et al., 2005). In their meta-analysis of 22 restorative justice studies Laitmer et al. (2005) found that restorative approaches were generally more successful than standard approaches. However, Wenzel et al (2008) explain that due to the voluntary nature of restorative justice there is bound to be bias, as the mere act of participation (especially regarding offenders) already indicates a degree of success, a concern acknowledged by Laitmer et al. (2005). Wenzel et al. (2008) discuss how restorative justice is far more likely to succeed between people who share societal values and a group identity. This is because an offence by someone who shares the same values is more likely seen as a violation of these values that can, and should, be restored. Conversely, an offender who does not seem to share values is more likely seen as an illegitimate challenger of power and status, and, more likely to receive retributive justice. A potential avenue for addressing this issue can be seen in Braithwaite's (2002) argument for ensuring accountability in restorative justice through adherence to a set of broad, top-down imposed principles. These principles are contestable from the bottom-up and this contestation makes them meaningful. Examples include maximising standards of restoring human dignity, restoring freedom, and emotional restoration. However, care is needed not to romanticise the local level, and nor to reproduce local power relations that are detrimental (Paris, 2010). Regardless, transitional justice is an important notion in the development of hybrid conceptions of the rule of law.

Rule of Law Summary

The SSR and rule of law reforms undertaken by most international interventions have tended to follow a pre-determined approach. They have sought to strengthen the relevant core state institutions, such as the police force and the judiciary. In

doing so, they fit into the liberal peacebuilding agenda described in part one of this chapter. The close relationship between SSR and the development of the rule of law necessitates a diverse range of strategies to ensure success, but most mainstream ones focus on the state and its institutions. These approaches have drawn criticism, especially for their Western-centric assumptions about how justice and the rule of law should operate. Their reliance on coercive force to carry out the initial work is also a vulnerability, as such power is highly visible and a lodestone for opposition. Echoing the calls for increased hybridity, the integration of bottom-up, restorative, and other contextually relevant approaches into the rule of law edifice are the new ways forward in developing legitimacy.

Defining Legitimacy and its Development

Legitimacy is a term that is gaining more and more traction in the development community, no doubt soon to be raised up to the same level as terms such as accountability, ownership, and participation. Hill et al. (2012) describe legitimacy as the fundamental foundation that forms the basis of people's choice to engage with different actors. Therefore, legitimacy is the ultimate goal when undertaking the institutional development central to peacebuilding, as it is only when institutions are legitimate that people will begin to take their primacy for granted and internalise their rules. However, there are two conflicting views regarding whether anything can be intrinsically legitimate. This research rejects any claim to intrinsic legitimacy, and therefore, the process of developing it necessitates diverse strategies to address all facets of legitimacy. These strategies are made visible by considering a modified version of Lukes' three dimensions of power.

The Intrinsic and Non-intrinsic Views of Legitimacy

The intrinsic view is where certain institutions and political orders have legitimacy inherently built into them (Anderson, 2012). They represent the 'true' way of ordering and representing society. For the West, this emerges out of the rationalistic tradition where rational investigation can uncover truth. Therefore, institutions based on this idea are intrinsically legitimate as they embody this process, piggybacking on its legitimacy. Paris (2004) reflects this idea when he highlights that in peacebuilding there are certain non-negotiable elements of the

state. They are non-negotiable because they are intrinsically legitimate; hence, their development is enough to ensure their place in society. The fundamental determinant for legitimacy then becomes how well the institutions perform. On the surface, Tyler's (2003) process-based model of compliance with the law, as presented in Figure 2, represents this:

Figure 2: Process-based regulation (Tyler, 2003)

Tyler sees a perception of fair process as the fundamental unit guiding adherence to the rule of law: if you get the process right, legitimacy will develop. This represents a procedural view of justice where the trust amongst the population, developed by proper process, confers legitimacy on the justice system and prepares people to obey institutional commands (Hough et al., 2010). Modern legal process in the West rests on rationalism and the idea that adjudication is a rational exercise (Chapman, 2000; Gee and Webber, 2013). A fair and rational process will then deliver fair outcomes, making the rule of law intrinsically legitimate when functioning properly. However, the definition of 'fair' is normatively determined in a society (Hough et al., 2010; Tyler, 2003). Talentino (2007) describes how local perceptions shape what a just action is viewed to be. What one sees as just represents a belief in a particular way of organising society and relationships, a belief being something that one accepts to exist or be true (Merriam-Webster, 2013). As these beliefs change so do what people view as fair

and just; therefore requiring different processes to ensure legitimacy and compliance with the law.

This is the non-intrinsic view of legitimacy. It exposes the culturally constricted nature of the rules on which we order society. Therefore there can be no intrinsic legitimacy, as what is legitimate in one society may not be in another due to differences in beliefs of what is fair and just (Anderson, 2012; Pitor et al., 2010). Foucault's description of the state offers insight here. He describes the state as a variable phenomenon based on multiple force interactions, which form the moving body of power relations; these power relations crystallise into objects like state apparatuses, social norms, and bodies of law (Foucault in Jessop, 2007). Under the non-intrinsic view, the development of legitimacy becomes a struggle of force interactions to establish what is true. Laclau and Mouffe (2001) describe this as the battle of different discourses to establish new systems of truth. Success occurs when one discourse establishes a hegemony over the principles for organising society (Sutherland, 2005). It crystallises into a new social truth. The conception of legitimacy presented in the OECD (2010) report *The State's Legitimacy in Fragile Situations: Unpacking Complexity* gives particular emphasis to the importance of beliefs in their four dimensional view of legitimacy, comprising of:

- Process legitimacy, in which the state is tied to a system of agreed rules that organise participation and produce binding decisions
- Performance legitimacy, tied to the effectiveness and quality of state services and goods
- Shared beliefs, shaped by societal factors such as ideology, religion, culture and traditions, also includes charismatic legitimacy deriving from particular individuals
- International legitimacy, from the recognition of a state's sovereignty and adherence to international norms

This is the conception of legitimacy used in this research. It sees it not as a simple concept and these four elements reflect this. Building legitimacy is about addressing all of these four elements and all four are connected in many ways,

some interactions being mutually reinforcing and others detrimental (OECD, 2010). Understanding the development of legitimacy in these elements necessitates a suitably diverse framework; for this Lukes' three faces of power offers insight.

The Three Dimensions of Domination

The three faces, or dimensions, of power, is a theoretical framework for how actors exercise power to achieve their goals, originally established in Lukes' 1974 book *Power: a Radical View*. In the 2005 second edition, Lukes expands on his original theory by acknowledging that the three dimensions of power are not absolute. Rather, they represent a conception of 'power-over': they describe the means utilised to meet certain ends (Lukes, 2005; Swartz, 2005). This is opposed to what Morriss (2006) describes as the true conception of power, where power is the capacity to meet certain ends. For example, it is possible to be powerless (lack capacity), but not be dominated, something not possible in the original conception of the three faces of power. Morriss (2006) calls for the three dimensions of power to be called what they are, three dimensions of domination. Perhaps this is a semantical quibble, but one that is useful in avoiding ambiguity and hence followed.

What are the three faces of domination? Gaventa (2006) adapts a table from VeneKlasen and Miler (2002); this table is further adapted here to describe the three faces or dimensions:

Lukes (2005)	Gaventa (2006)	Focus	Description
One dimensional power	Visible power: observable decision-making	<ul style="list-style-type: none"> • behaviour • decision-making • (key) issues • Observable (overt) conflict • (subjective) interests 	The formal rules, structures, authorities, institutions and processes that shape decision-making, including the control over resources.

Two dimensional power	Hidden power: setting the political agenda	<ul style="list-style-type: none"> • decision-making and non-decision-making • issues and potential issues • observable (overt or covert) conflict • (subjective) interests 	Controlling who is at the table and what can be discussed. Decisions are prevented on potential issues.
Three dimensional power	Invisible power: shaping meaning and what is acceptable	<ul style="list-style-type: none"> • Decision-making and control over political agenda • Issues and potential issues • Observable (overt or covert) and latent conflict • Subjective or real interests 	Shaping psychological and ideological boundaries of participation. Influences how individuals think about their place in the world.

Table 1: The three dimensions of domination (adapted from Gaventa, 2006 and Lukes, 2005)

An important part of the three faces of domination is the idea that as we move towards the third dimension the exercise of domination becomes less visible, and through being less visible it is more effective (Swartz, 2005). When considering the attribution of the intentionality to dominate, Lukes (2005) acknowledges that power can shape people's behaviour without being intentional. Dowding (2006) puts a more detailed approach forward. He explains that when someone acts in ignorance of the effects of their actions they are not dominating. However, if they are ignorant, but should not be, they are dominating. Finally he explains that anyone aware of how institutions shape behaviour through domination and do not seek to change those structures for the better is part of the system of domination. This is obviously variable, depending on the capacity of the person to change the institution.

Expanding the Third Dimension

This dimension is worth further mention because of its complexity. It relates closely to Foucault's notion of governmentality. Governmentality takes government to mean something that:

“refers to conduct, or an activity meant to shape, guide, or affect the conduct of people. Conduct takes on meaning beyond the form of leading and directing. It also refers to the ‘conduct of oneself’ where a sense of self-governance is a guiding force.”

(Huff, 2007, p. 389)

In this, the role of government and governmentality involves:

“the ensemble formed by institutions, procedures, analyses and reflections, calculations, and tactics that allow the exercise of this very specific, albeit very complex, power that has the population as its target, political economy as its major form of knowledge, and apparatuses of security as its essential technical instrument.”

(Foucault, 2007, p.108)

From these ideas comes the famous definition of government as the ‘conduct of conduct.’ This is a wide-ranging term and covers both self-government and the governing of others (Lemke, 2000). Central to the third face of domination is the establishment of such self-governance and the form of personal conduct. The achievement of this internalisation of the rules necessitates the establishment of certain beliefs about what is acceptable and true. Fairclough (2001) describes a similar concept in his members’ resources, being the set of rules that people draw upon in their everyday lives to interpret issues and conduct themselves. The third dimension of domination, from an institutional point of view, aims to define what the conduct of conduct/members’ resources of a society is/are.

However, governing people is not just getting them to do what the governor wants; rather it is an equilibrium between techniques of domination that shape how individuals act upon themselves, and the effects of the self when integrated into systems of domination (Foucault, 2007). Institutions are also vulnerable to the third dimension of domination, as individuals capable of exerting force inhabit them. However, asymmetrical power relations between those in power and the subordinates, facilitated by the technologies of government that systematise and regulate power relations, make institutional domination possible (Lemke, 2000). There are many different technologies, but one of particular importance is the mobilisation of discourse.

Language is the primary way we understand society, but language is not neutral. It develops out of the specific historical, cultural, and political forms of society to

form particular discourses (Anker, 2007). This research takes a strong (but not the strongest) view of discourse as a:

“Connected set of statements, concepts, terms and expressions which constitutes a way of talking and writing about a particular issue, this frames the way people understand and act with respect to that issue.”

(Watson as cited in Alvesson and Kärreman, 2000, p. 1131)

The key word in the above quote is ‘frames’. This does allow other factors, such as free will, to play a role in cognition, but such factors operate within the finite space established by discourse. Discourse can then be a powerful tool to shape how people see the world. Fox and Miller-Idriss (2008), when discussing the development of nationalism, highlight the importance of taken-for-grantedness because it makes things invisible. Discourse is often taken for granted, hence making its influence invisible and accordingly powerful. The deferral of references achieves the actual mobilisation of discourse. Cooper (1993) describes this as where a statement gets its rhetorical power through indirectly referencing the real world, indirectly because the statement is “refracted through an imaginary, or imaginatively presented one [world]” (p.198). Over time, this can transform a meaningless statement into truth. The portrayal of a threat is particularly powerful in this respect. In their research, Hjerm and Schnabel (2010) show that external threats are important drivers in the development of nationalism. However, with the modern geopolitical situation and the abandoning of a territorial conception of security in favour of an individual, internal one (Longo, 2013), there has been a shift to focus on internal threats rather than external.

Legitimacy Summary

Legitimacy is a complex and debated concept. This research rejects any claims that institutions or concepts can be intrinsically legitimate. Rather, it views legitimacy as being dependent on the culturally constructed shared beliefs within a society about what is true. Developing legitimacy then requires a holistic approach that addresses these shared beliefs, while also paying attention to the importance of proper process, the delivery of acceptable outputs, and the

importance of international recognition and norms. A modified version of Lukes' three faces of power, with a closer focus on the third face and discourse, is offered as a way of understanding the strategies used by institutions to develop the four types of legitimacy set out in the OECD (2010) report. The research uses this lens to uncover the strategies used by the Regional Assistance Mission to Solomon Islands to develop legitimacy in the rule of law.

Conclusion

A theme that has run throughout the chapter, from issues with the contemporary peacebuilding agenda and approaches to developing the rule of law to the definition of legitimacy used, is the importance of contextual understanding. The consideration of the place of contextual understanding in Solomon Islands peacebuilding is, therefore, paramount if we are to assess the sustainability of gains made. The other issues discussed also necessitate consideration in a Solomon Islands context to see if they have an effect on the four types of legitimacy. These four types of process, output, shared-belief, and international legitimacy together necessitate diverse strategies to develop them all. This chapter has presented a picture of the dominant contemporary approaches for doing this regarding the rule of law, both broadly through the liberal peace consensus and focused through SSR and rule of law reform. Given the international community's penchant for best practice and internationally agreed frameworks, these dominant approaches provide clues for the development of legitimacy in Solomon Islands.

As described by Foucault there are particular technologies of government that facilitate domination. Domination is further broken down into the three different dimensions for this research. Utilising Lukes' power over resources, power over process, and power over meaning, gives structure and clarity to the complex array of technologies of government and the messy business of institutional domination. This chapter has looked at just some of the considerable literature on peacebuilding. It has focused on the liberal peacebuilding agenda's toolbox of technologies of domination, issues with them, and attempts to challenge (or maybe just reshape) their form through hybrid approaches. However, research

into peacebuilding and the rule of law done primarily through a domination-based lens, while giving due regard to legitimacy is rarer. This research aims to fill that gap to develop a more nuanced understanding of the development of the rule of law in post-conflict environments. The following chapter sets out the research methodology used to achieve this.

Chapter Five: Methodology

Having established the contextual, historical, theoretical, and empirical foundations of the research this chapter presents how the research was undertaken. A well-designed methodology is critical for successful research. This requires close consideration of data collection methods, data analysis methods, any possible ambiguities in the research, and ethical considerations. Furthermore, Rose (2007) reminds us that research is discursive and reflects certain relationships and assumptions. For this reason, it is important to reflect on what these are. This requires an investigation of the epistemological foundations of the study, for this establishes how the researcher and the research interacts with other bodies of information. At the more personal level, a look at one's personality reveals potential sources that may influence the research. Such important considerations are presented first.

Epistemology

This research was within the paradigm of post-positivism, where reality is outside the human mind, but due to the constraining nature of language and the complex nature of nature, one can never be certain about a theory. Additionally, post-positivism acknowledges that theory affects any collection of data and cannot be completely neutral (Willis, 2007). Post-positivists recognise the ability of social and political structures to shape and hold power over individuals. This forms an important part of how the world is seen and how knowledge is constructed (Schwandt, 2007). There is no spot for the researcher to look out from that is free from bias generating influences (Mansvelt and Berg, 2005). The post-positivist approach acknowledges that the complex relationships implicit in the research can theoretically be explained rationally, and therefore neutralised, but such an understanding is outside the scope of human ability (Willis, 2007). Still, one has an obligation to move towards the area of least bias and attempt to make those biases that remain, visible.

Consideration of the effects of language is critical to post-positivism and it is one of the group of theories associated with the linguistic turn. The links between poststructuralism and post-positivism are particularly important. For example,

one of the founding figures in post-positivism, Ferdinand de Saussure, argued that the act of classification is not neutral due to the constructed nature of language (Manjikian, 2013). As classification is a fundamental aspect of any attempt at a mechanistic and rational understanding of a phenomenon, these attempts also lack neutrality. Poststructuralists hold that “the relationship between society and culture is mediated through language: humans are configured and given cultural significance through language” (Kitchin and Tate, 2000, p.17). Therefore, the very language used limits the abilities of humans to obtain a truly rationalistic understanding of the world. The best one can do to escape this trap is to acknowledge power relationships, assumptions, and sources of bias in the research.

A post-positivist epistemology has two main implications for the research. First, regarding data analysis, the recognition that language both directly and indirectly shapes behaviour (indirectly through the influence of social and political institutions built upon discourse) necessitates a data analysis technique that makes these relationships visible. For this reason, discourse analysis becomes a significant factor in determining the direct effects of language on legitimacy in the rule of law. Content analysis allows investigation of the indirect effects through institutions. The second implication is that such recognition of the power of language necessitates the practice of reflexivity by the researcher. One’s background shapes how they will interpret a particular issue, and such interpretation will not be value neutral (Willis, 2007). “Knowledge does not, according to a post-structuralist perspective, exist independently of the people who created it” (Mansvelt and Berg, 2005, p.257). The researcher must then understand that how they interpret data is shaped by the discourses they have been exposed to and that these influence the final words they put to paper. Essentially, post-positivism necessitates a thorough consideration of positionality.

Positionality

As Lukes (2005) explains, the most potent influences are those that are not visible, but making them visible goes a long way in negating their effects. This

section attempts to outline the main factors influencing my positionality as a researcher. The following table (Table 2) shows this attempt. To do this, two hypothetical extremes of each factor are presented: one a complete acceptance of the factor, the other a complete rejection. My personal reality is located at some indistinguishable point along a continuum between these two extremes. Presenting each extreme is useful in that it makes visible what the forms of influence could be. It provides a list of the most significant tints that could creep into one's analytical lens, thus, making it easier to avoid these influences.

Factor	Extreme Acceptance	Extreme Rejection
European history of colonialism	<ul style="list-style-type: none"> - Denial of negative impacts, such as small pox - View of aid recipients as impassive objects of benevolent Western assistance 	<ul style="list-style-type: none"> - Denial of benefits, such as reduced maternal mortality - Romanticisation of traditional societies
Western, rationalistic education	<ul style="list-style-type: none"> - Rejection of other epistemologies - Assumption of neutrality - Marginalisation of non 'experts' - Adoption of a mechanistic totality 	<ul style="list-style-type: none"> - Epistemological nihilism - Rejection of the many benefits science does bring
Age	<ul style="list-style-type: none"> - Over valuing of one's personal abilities - Overly ambitious challenges to status quo - Marginalisation of experience 	<ul style="list-style-type: none"> - Under valuing one's personal abilities - Reluctance to challenge status quo - Dogmatic deference to experience
Gender	<ul style="list-style-type: none"> - Male chauvinism 	<ul style="list-style-type: none"> - Female chauvinism

Table 2: Main factors influencing my positionality

Despite the benefits of the researcher giving due regard to their positionality, there are fundamental debates in the development field about the ability of an outsider to portray other peoples' culture (Momsen, 2006). Context is crucially important to all research involving social interaction and needs to be understood as best as possible (Brydon, 2006). As an outsider, I only have a limited understanding of the cultural setting. One of the primary objectives of the semi-structured interviews was to improve this understanding and I tailored questions accordingly. Informal interactions with Solomon Islanders were also vital in gaining a situated understanding of the context; whether this was chats at a café, or interaction with villagers in the rural areas.

Data Collection

Document analysis was the primary data collection technique used in the research. These documents were used to establish the physical ways the Regional Assistance Mission to Solomon Islands (RAMSI) was affecting legitimacy in the rule of law and to provide a source of discourse to understand more subtle influences. The strengths and weakness of document analysis are summarised in Table 3:

Strengths	Weaknesses
<ul style="list-style-type: none">- Can be reviewed repeatedly- Unobtrusive and not created as a result of the case study- Grounded in the locality- Provides useful background and insight into an issue and people- Relatively inexpensive to carry out	<ul style="list-style-type: none">- Retrievability can be low- Coverage may be incomplete- May not provide insight into personal thinking- May not apply to general populations- Vulnerable to collection bias

Table 3: Strengths and weaknesses of document analysis (Sage, n.d.; Yin, 2003)

Waitt (2005) encourages us when trying to filter through the vast amount of potential sources of discourse to ask which are going to be the richest. The two richest sources of documents embodying RAMSI's dominant discourses were the collection of RAMSI speeches and letters (available at www.RAMSI.org). The collection of speeches consisted of 50 documents, the earliest from July 2003 and the most recent from November 2013. The letters from RAMSI consist of copies of the monthly column RAMSI has published in the *Islands Business* magazine since January 2010. These comprised the primary document sources, along with core RAMSI documents, such as the 2009 *Partnership Framework* and annual reports. However, as Rapley (2007) highlights, it is important to gather secondary sources of documentation separate from the mainstream account. Secondary data sources included independent annual reports on RAMSI activities, newspaper articles, and other assessments of RAMSI's actions.

The other main source of data was semi-structured interviews. These provide a vital source of personal experience, contextual information, and views not commonly obtained through document analysis (Yin, 2003). Following a semi-

structured format also reduces the risk of the researcher imposing their own frameworks of meaning and understanding by keeping the interview open, flexible, and interactive (Mason, 2004). They also provided a source of counter discourse and content from that in RAMSI documents. The following table sets out the strengths and weaknesses of semi-structured interviews:

Strengths	Weaknesses
<ul style="list-style-type: none"> - Good at measuring attitudes - Can provide information on participant's underlying thinking and motivation - Can provide targeted information - Fluidity allows interviewer to respond to interviewee's knowledge - Good source of interpretive data 	<ul style="list-style-type: none"> - Needs to be supplemented with other methods to assist in interpretation - Expensive and time-consuming to undertake - Reactive bias - Interviewees may not recall important information

Table 4: Strengths and weaknesses of semi-structured interviews (Dunn, 2005; Mason, 2004; Sage, n.d.)

Willis (2006) cautions that we must, when undertaking a select number of interviews regarding wider trends, consider if the interviewees provide a good representation of the wider population and if they are in a position to comment. Data collected from semi-structured interviews is also never complete, offering situated views of issues (Roulston, 2010). However, it is precisely these situated views that are of interest in semi-structured interviews. Mason (2004) explains that contemporary semi-structured interview processes reflect the belief that knowledge is situated and contextual. She goes on to state that this means the role of the interview is to bring context to the forefront so situated knowledge can be created.

Six official interviews were carried out with Solomon Islanders and expatriates who engage with and/or have experience with conflict resolution processes in Solomon Islands. In addition to these interviews, numerous informal discussions occurred with people involved with the law and justice sector, which were of great assistance to the research process and contextual understanding. Of particular note are the off the record interviews carried out with senior RAMSI staff. Fieldwork was undertaken during a six-week visit to Solomon Islands from June to mid-July 2013, in which the majority of time spent was in Honiara. Data collection could not be pursued outside of Honiara due to time constraints

meaning the appropriate provincial research permits could not be obtained. A research permit to collect data in Honiara was obtained from the Solomon Islands Government (SIG). Initial interview participants were identified through previously established contacts in Solomon Islands, and subsequent participants identified through recommendations from other people. Interviewees were given a copy of the interview schedule outlining the broad topics to be discussed. Aspects that are more specific were delved into through probing questions as avenues became apparent.

Data Analysis and Coding

Coding simplifies the mass of data collected in the research process. It facilitates understanding by categorising data and making it more familiar. Categorisation also helps create an organisational structure that can be easily searched (Cope, 2005). Coding was done using the NVivo (version 10) software package. NVivo is designed for coding qualitative data and contains tools to code data and analyse it through different text and query searches (QSR International, 2013). NVivo is useful in helping to work systematically through data, uncovering emerging themes, and the visualisation tools help obtain a new perspective on the research (Wiltshier, 2011). In the research, NVivo was predominantly used for coding, together with some preliminary data analysis through simple query searches. Data was primarily separated into information relating to the three chronological categories used in Chapters Six, Seven, and Eight: initial intervention, statebuilding, and the reorientation of RAMSI. Within these categories, data was further divided into whether it related to the three faces of domination, RAMSI's own legitimacy, or issues that undermined the strategies.

Two data analysis techniques were used in the research: content analysis and discourse analysis. Content analysis assesses both the quality and quantity of statements in a document to ascertain its meaning (Ferrari, 2007). When assessing quantity, content in documentation is coded into pre-determined categories to assess their significance in constituting the documents meaning (Harvey et al., 2004). When focusing on quality, the researcher seeks to interpret meaning without translating findings into numerical coded data (Ferrari, 2007).

These two versions set up a continuum with the more qualitative quality analysis on one side and quantitative quantity analysis on the other. The research used a qualitative approach to establish the meaning of the texts. However, content analysis only establishes meaning:

“in the sense of what is explicit in the words used in the text and what is implied by their use from the range of alternatives that could have been employed. There is no suggestion that the text has an *essential* [original emphasis] meaning ... content analysis is a simple affair of describing the actual content of a text.”

(Brewer, 2003, p. 44)

This is precisely the simple affair needed to describe the more visible ways that RAMSI affected legitimacy in the rule of law through the first and second dimensions of domination. The processes used first required identifying the main themes and coding the data accordingly. These themes were then analysed in conjunction with the information in the literature review to allow conclusions to be drawn. However, content analysis is insufficient when working with the invisible elements of domination such as governmentality and the third dimension. For these discourse analysis was utilised.

Discourse analysis is the process of looking at what is and is not said, investigating how issues are raised, seeing what forms of knowledge and evidence are deployed, unveiling how specific identities are produced and sustained, and assessing the regularity and variability of data (Waite, 2005). In discourse analysis language is not treated as neutral, rather it is performative and functional (Rapley, 2007). There are many different definitions of discourse itself. Alvesson and Kärreman (2000) detail these definitions as ranging from extreme post-structuralist conceptions, which see language as the fundamental structuring principle of society, to extreme linguistic approaches that see discourse as a purely linguistic performance. As set out in the literature review, this research takes a strong, but not absolute view of discourse. In this form, it is a powerful tool for analysing what is taken for granted in everyday issues and actions, along with how this affects society (Rose, 2007). This is used in the research to investigate the more abstract and hidden effects on legitimacy, those revolving

around concepts of governmentality and the third dimension of domination. By their very definition, these concepts are invisible, for it is from their subversive and taken for granted nature that they derive their influence. Therefore, discourse analysis is powerful in that it can make these relationships visible.

The very nature of discourse limits the description of how discourse analysis is carried out. Waitt (2005) explains that an approach that is too formulaic and too mechanistic undermines the very concept of discourse analysis. Rose (2007) describes seven strategies for interpreting discourse:

- Look with fresh eyes, do away with pre-existing categories
- Immerse yourself in the texts
- Identify key themes and code them
- Examine how the key themes effect 'truth'
- Look for complexity and contradictions
- Look for the invisible and mechanisms of silence
- Focus on details

Following these strategies allowed for structure and academic rigour in the research, but did not undermine the discourse analysis by being too rigid in its approach. It allowed an approach that acknowledges the messy nature of the real world. However, with such messiness there are bound to be some obscurities that need clearing up.

Possible Ambiguities

In RAMSI documents, there is an ambiguity between technical advisors, capacity builders, and staff in in-inline positions. RAMSI uses the term technical advisor to refer to staff in in-line positions and/or staff in capacity-building positions. It is often difficult to discern whether they mean both roles combined or just one separately without reading much more of the document. For this research technical advisor and advisor is used to reference specifically staff in capacity building roles.

Another ambiguity is how the relationship between the modern Western state and the rule of law is treated. The discussion chapter of this research often mentions an effect on the legitimacy of the state. The assumption is that because of the centrality of the rule of law to the state, and the state as largely the embodiment of the rule of law, an increase in the legitimacy of the state will also increase the legitimacy of the rule of law.

The use of the word domination may also seem heavy handed to some and has very strong neo-colonial overtones. However, for a view that sees the world as a field of competing discourses struggling to establish their 'truth' (an idea central to this research), domination becomes the means by which one discourse triumphs over the others. There is nothing inherently bad about it; it is just the process in which truth is established. In fact, this research aims to mobilise a type of domination through its argument over the reader to establish the truth of its ideas.

Another aspect of the research that is somewhat jarring is the degree of intentionality assumed. A surface reading might show that the staff within RAMSI itself are actively seeking to dominate Solomon Islanders. This is not the intended message. Due to the nature of domination described in the above paragraph, people may not be aware that they are exerting a type of domination. Additionally, systems theory can shed light on this apparent intentionality. Emergence is a concept where multitudes of simple interactions within a system generate complex and emergent properties that appear to be more than the sum of its parts (Galatzer-Levy, 2002). Applied to RAMSI's apparent intentionality to dominate, at the organisational level these tendencies can emerge out of the interactions within the organisation, even if the intentions to dominate are not present at that level.

Ethical Considerations

Development is fundamentally an undertaking in ethics. Above all else, it is "a question of values and human attitudes, self-defined goals, and criteria for determining what are tolerable costs to be borne in the course of change" (Goulet,

1997, p.111). A consideration of ethical implications is therefore doubly important in development research. The main ethical consideration in this work is the potential development of a research process that merely extracts information and gives nothing back to the communities and people involved. Denzin et al. (2008) describe how the research practice has been linked to imperialism and colonialism. The researcher who gives nothing back to the community perpetuates these rhetorics. Two main approaches were used in the research to address this. First, obtaining written informed consent from all interviewees was mandatory. Following the advice of Willis (2006), this involved giving participants clear information about what is involved in the research, their right to decline to participate, and what options they have in participating. Howitt and Stevens (2005) explain that informed consent is especially important when working in cross-cultural environments. Written consent was obtained from all interview subjects and a research summary provided to them. Appendices One and Two contain samples of these documents. Ethics approval was also obtained from Victoria University prior to leaving to undertake fieldwork, as was the required research permit from SIG.

Howitt and Stevens (2005) also stress the importance of agreeing on how to use the information and to give participants the opportunity to access the research findings. Establishing this with individual participants in the research (including both interviewees and other people who assisted the research) was a priority and appropriate methods were established. Rose (2007) reminds us that the language in this final report also is a form of discourse: it represents and constrains truth in different ways. Care has been taken to ensure the use of language does not obscure important aspects of the research. Summaries of the research's key findings have also been prepared for participants who might not have the time to read the full report.

Another key ethical consideration involved power relations. As described by Brydon (2006) different relationships of power between the stakeholders saturate any research context. The researcher then must be context-sensitive. This is especially pertinent given the close-knit nature of those involved with law and justice in Solomon Islands. To avoid any negative impacts any particular

comment or opinion might have on someone it was decided to keep all participants anonymous and to refer to them through general position titles. The research participants were experienced professionals engaging with law and justice issues. As I was junior in this relationship, power was more on the side of the research participants.

Conclusion

The research used two main sources of data: transcripts from semi-structured interviews and documents released by RAMSI. This data was coded using NVivo, a software package that helps organise and analyse textual information. When analysing the data, content analysis was used to understand the first and second dimensional effects RAMSI had on the legitimacy of the rule of law. Critical aspects affecting legitimacy are also the invisible third dimension of domination and governmentality. Discourse analysis was used to uncover these in the data. However, the data analysis was not that simple. Proper consideration of epistemology and positionality are vital for a well-designed research process. The consideration of these factors, followed by core ethical elements and research ambiguities, helped establish the legitimacy of the research by allowing for proper reflexivity. Having completed this, we can begin to answer the question of how the contemporary peacebuilding agenda develops the legitimacy of the rule of law in post-conflict states.

Chapter Six: Shock, Awe, and a Mandate

The following three chapters present the main findings of the research. Each chapter represents one key chronological period of the Regional Assistance Mission to Solomon Islands (RAMSI). Like the divisions chosen in Chapter Two, these divisions are relatively arbitrary and the periods of change between the periods was gradual and never complete. This relationship is shown in Figure 3 below.

Figure 3: The changing focus of RAMSI

Each chapter unpicks the key elements that defined the period, focusing on the different strategies of domination employed to develop legitimacy in the rule of law, influences on and shifts in RAMSI's own legitimacy, and any negative factors that arose to the detriment of the overall project. It is by exploring these elements that we gain insight into the research questions.

This first chapter of the three looks at the initial deployment of RAMSI that occurred on 5 June 2003. With respect to the strategies of domination, this period was categorised by the use of coercive military force to restore basic law and order and the imposition of the victor's peace to consolidate gains. Secondly,

an analysis of RAMSI's enabling framework and structure helps explain RAMSI's own legitimacy and the broad-based public support it obtained and largely retained.

Restoring Basic Law and Order

The first stage of post-Tensions peacebuilding began in 5 June 2003 with the deployment of RAMSI. It was characterised by a mobilisation of coercive force to restore basic law and order and the monopoly on violence, seen as the preconditions for the rule of law and the state (Stromseth et al., 2006; Beswick, 2009; Andrieu, 2010). Then Special Coordinator, Nick Warner, summed up the primary goals of the first stage at the time:

“Our immediate purpose is to restore law and order in Solomon Islands. Our police will be working hand-in-hand with the Solomon Islands police to provide safety and security to streets and villages and to get guns out of communities. Only then will conditions exist for the revival of the economy.”
(2003a, p.1)

The impacts of these initial actions to restore law and order and the rule of law are relatively straightforward and dealt with first. Also of concern for this first stage of RAMSI are the structural aspects of how it operated. The form of RAMSI affected to what degree citizens felt pressured to adhere to outside notions of government and justice, a process described by Talentino (2007). If citizens do feel pressured, it is because strategies of domination have become visible. Swartz (2005) tells us that the less visible the types of domination are the more effective they are, therefore making them visible reduces their effectiveness. This in turn makes the development of legitimacy more difficult. The key elements of RAMSI's form focused on for this discussion are its regional nature, its legislative framework, its mandate, and the accountability processes for civilian personal.

This stage most visibly represents a one-dimensional strategy of domination. Shock and awe describes the initial tactic used by RAMSI, as they relied on the show of overwhelming force to intimidate any militants into surrendering:

“we came in with a very large potent military force ... We did that quite deliberately so that we didn’t have to use military force during this operation, and it worked. We got the attention very quickly of the militants and the thugs and the criminals, and they made a very correct strategic decision – that is, that it was better to co-operate with us than to take us on.”

(Warner in Fullilove, 2006, p.34)

It is undeniable that RAMSI was very successful at this initial stage, with over 3700 firearms recovered and 340 arrests made by the end of 2003 (PIFS, 2004). This strong use of coercive force allowed RAMSI to re-establish basic legitimacy in the rule of law. Delivering the ‘service’ of basic security and safety by re-establishing the monopoly on violence to a legitimate institution achieved this. While it was not Solomon Islands Government (SIG) that directly held this monopoly, the arrangement tying RAMSI to SIG through the enabling legislation (Fullilove, 2006), imparted it indirectly. However, as described in Chapter Three, issues did arise out of having two policing systems: the Participating Police Force (PPF), perceived as legitimate amongst Solomon Islanders for reasons described in Chapter Three; and the Royal Solomon Islands Police Force (RSPIF), distrusted due to their earlier involvement in the Tensions.

This coercive strategy reflects the victor’s peace described by Richmond et al. (2011) where the imposition of peace is through top-down and coercive means. It restores the monopoly on violence, which as shown in Chapter Four, is essential for the rule of law and the state itself. It allows rule of law institutions to exercise the first dimension of domination to ensure compliance with the law. RAMSI and the PPF in this first stage used the victor’s peace (as a first dimensional strategy) to establish this monopoly. By doing this, it raised output legitimacy in the rule of law by showing what a functioning state and functioning justice sector can deliver. In fact, it raised output legitimacy to a degree that process legitimacy in Solomon Islands institutions could not keep up. For example, in 2012 it was predicted that the Tension Trials would still not be completed by mid-2013 (Talasasa in Buchanan, 2012). SIG have also expressed concern that the Tension Trials have drawn resources away from other cases and limited the ability of the country to move on (RAMSI, 2010a). Averre (2008) also discusses this idea. He highlights how the adversarial nature of the courts, and the fact that most former

militants are forced to deny their charges because of the significant terms of imprisonment proposed, prevents societal healing and reconciliation. Echoes of Berg (2012) are apparent, where the justice system cannot keep pace with arrests and issues follow. For Solomon Islands, there were issues, and issues despite the extensive in-line staff from across the Pacific RAMSI placed within the courts.

RAMSI's Regional Nature

The most obvious aspect of RAMSI's form is its regional nature, this was important from the very beginning. In his speech marking 100 days of RAMSI, Nick Warner talked about "your friends from around the Pacific" (2003b, p.1). Also, as "RAMSI arrived in July 2003 with the endorsement of the Pacific Islands Forum" (Ash, 2007, p.2), its regional nature was all the stronger. This was fundamental in overcoming a chicken or the egg problem, namely: what comes first, a legitimate security sector or the rule of law? The literature review describes this problem as where interventions are forced to use ineffective coercive force to develop the rule of law, which can then legitimise the security sector. While coercive force was central to RAMSI, it minimised tensions by using military and police contingents to establish the preconditions for the rule of law that drew their legitimacy from other sources, not the rule of law within Solomon Islands, which the RSIPF is dependent upon. This legitimacy came from the established rule of law, and other shared characteristics, in the participating countries.

The 2009 SIG committee report into the RAMSI intervention described two similarities between the participating countries and Solomon Islands, in terms of laws and legal systems, which are significant:

"First, most are island nations with laws tailored for circumstances that are quite similar to those of Solomon Islands. Second, all are common law jurisdictions (as opposed to civil law) which derive most of their written laws from England and also apply principles of common law and equity; as is the case in Solomon Islands."

(p.78)

This shared history gave RAMSI a form of surrogate legitimacy, which then allowed it to establish the preconditions for the rule of law in a way that was

legitimate in the eyes of the public. The contingent of RAMSI staff who are from other Pacific islands are particularly important in this respect, as they have even more in common with Solomon Islanders than much of the Australian and New Zealand contingents.

The regional nature also had an impact on RAMSI's legitimacy. The legitimacy of RAMSI itself is important to avoid the situation described by Talentino (2007). Legitimacy by definition means people believe in the truth of the institution's right to operate (i.e. RAMSI). By association, this is imparted, but not totally, onto the work it does (strengthening the rule of law). Similarly, distrust and dislike of the institution taints its work. Having established this, how did RAMSI's regional nature contribute to its legitimacy? Firstly, a key element of democracy is pluralism. Rawls describes how an organisation derives its legitimacy from "an appeal to the values and ideas of public reason and these political values are supported by an overlapping consensus of comprehensive doctrines" (Rawls in Rose, 2008, p.419). Pluralism brings in the multiple ideas and values held by different people to include it in the overlapping consensus. RAMSI's regional nature developed such pluralism and brought in multiple doctrines, hence increasing legitimacy. However, the regionalism was not total as the majority of staff were Australian and there was a perception that "officers from other Pacific Islands [in the PPF] were a token gesture" (Averre, 2008, p.17). However, there was more to the legitimacy of RAMSI. Under the modern peacebuilding agenda, intervention legitimacy is dependent on cooperation with the host country.

Legislative Framework

The intervention's legal framework consisted of three primary documents: the *Facilitation of International Assistance Act 2003*, the *Facilitation of International Assistance Notice 2003*, and the *RAMSI Treaty* (SIG, 2009b). These established RAMSI not as a transitional administration, but as an assistance package that works with and inside SIG: SIG remained in control of executive, judicial and legislative authority (Fullilove, 2006). Under this legislation, SIG could also review the intervention on an annual basis and revoke its right to operate in the country (Dinnen, 2008). This acted as a limit on

RAMSI's power and was a powerful message to Solomon Islanders that it is not some neo-colonial exercise, therefore protecting its legitimacy. It shows an attempt to get around the issues raised in the literature review by Chandler (2006) and Heathershaw (2008) about the redefinition of sovereignty to a continuum. Speaking at Henderson Airport upon RAMSI's arrival in Solomon Islands Nick Warner stated:

“Let me emphasize again that Australia, New Zealand, and the other Pacific countries involved in the regional assistance mission are here at the formal and explicit request of your government. All of us respect the fact that Solomon Islands is an independent and sovereign country. We are here to help you and your government restore that sovereignty - to restore the capacity of government to represent its people and to act in the public good.”

(2003a, p.2)

Rather than sharing sovereignty with SIG, RAMSI's legislative framework established RAMSI as supporting it. Yet, RAMSI, especially prior to 2007, had the lion's share of authority (discussed more in Chapter Seven). Under the Westphalian conception of the state, sovereignty is dependent on authority (Krasner, 1999). Therefore, a degree of sovereignty subversion did occur.

Of importance is RAMSI's mandate, as this established what work it was to carry out. Over time, this became increasingly important as a reference point. The mandate was more than just restoring law and order, in a speech Nick Warner explained that:

“We did not offer to just come in and simply lock up the criminals and clear the streets, collect guns and then go home. We came to work with you to ensure all of this could last, could be just the beginning, just the foundations for a brand new future for all Solomon Islands.”

(2004b, P.3)

The mandate was expressed in the *SIG Policy Statement on the Offer by the Australian Government for Strengthening Assistance to Solomon Islands* as:

- “1) Restore civil order in Honiara and throughout the rest of the country, including confiscating illegal weapons, investigating and prosecuting new criminal offences, strengthening the courts and prison system and protecting key government ministries;
 - 2) Stabilise government finances, including securing revenue collection and controlling expenditure, strengthening financial administrative safeguards and obtaining donor and international financial institutions’ support;
 - 3) Promote longer-term economic recovery and revive business confidence, including implementing economic reform, dealing with corruption and improving debt management; and
 - 4) Rebuild the machinery of government, including the functioning of the National Parliament, the Cabinet, the public service and the electoral process.”
- (2003a, n.p.)

Here the mandate reflects standard international fare. It directly relates to three of Zaum’s (2007) performance criteria: administrative effectiveness, rule of law and the establishment of a free market economy; and indirectly to human rights through clause 1 and democratisation through all clauses. It also covers all five points set out in the Peacebuilding and Statebuilding Goals: legitimate politics, security, justice, economic foundations, and revenues and services (ID, 2011). Solomon Islanders did not contribute to the mandate through normative discussions, as quite rightly, there was no time to do so beforehand, but the mandate was never subsequently changed. Therefore, the mandate represents the intrinsic view of legitimacy described in the literature review, especially the views of authors like Paris (2004) that there are certain non-negotiable elements of the state, which RAMSI was to construct.

The mandate is important as it established what things could overtly be done to build legitimacy in the rule of law. It represented a two dimensional strategy of domination, in that it created a hierarchy of the essential tasks to put Solomon Islands back on the right track. Principally this meant establishing the rule of law, restoring the government to a functional Western model, and creating the conditions for a market-based economy. Others, such as normative discussions on the form of the state, were taken off the table until the tier one tasks were accomplished. Here it is worth considering the implications of path-dependence

theory where dynamic processes produce self-reinforcing outcomes (Belloni, 2012). The development of these initial ‘essential’ institutions under this theory create the conditions for perpetuating those particular state forms, further limiting normative discussions. The result of all this for legitimacy in the rule of law is the marginalisation and delegitimisation of non-state systems of conflict resolution and the legitimisation of the rule of law, through perpetuating the assumption that it has an intrinsic claim to legitimacy. However as shown earlier, intrinsic legitimacy is a myth. Because of this, claims in RAMSI discourse that certain state aspects (the rule of law) are intrinsically legitimate is actually a third dimensional strategy to get people to believe that they are intrinsically legitimate. This is a strategy that is hard to achieve, as it sets up the rule of law in opposition to other conceptions of conflict resolution and societal organisation, creating an ‘either-or’ situation. This fundamental conflict permeates all subsequent work and destabilises all gains made.

Lastly, the willingness of international actors to accept RAMSI existing with and inside SIG rather than above them implies the recognition of SIG as a legitimate government by international actors. As international legitimacy can affect internal legitimacy (OECD, 2010), the recognition of SIG builds legitimacy in the rule of law through it being a core aspect of the type of state recognised. The report referenced does not explain the mechanisms in which international legitimacy affects internal legitimacy. Yet, one can imagine that the explicit or implicit endorsement of a state’s processes and outputs by international actors gives greater credence to them. This is in the same way that a reference to a scholarly resource would give the previous statement more legitimacy in the eyes of the reader. This is poignant considering that despite how unpopular the Kamekeza government was upon intervention, it would go on to be the first government to complete a full term of office (2001 – 2006) since independence (Dinnen, 2008).

Accountability of Civilian Personnel

As discussed in the literature review, central to the contemporary peacebuilding agenda are issues where those with true authority are not accountable to the

people (Chandler, 2007). Caplan (2005), with reference to the intervention in Bosnia, describes a fundamental contradiction: intervention staff were largely accountable only to themselves but their goal was establishing democratic and accountable institutions. In effect, this was a case of illiberal means for liberal ends. It is important to consider how these, and similar issues, relate to peacebuilding initiatives in Solomon Islands as they have a significant impact on legitimacy, both of RAMSI and the rule of law.

An area where this was dealt with well by RAMSI, despite the debates that emerged, is the legislation controlling how any RAMSI staff who break the law are handled. To begin, a first glance does raise some issues. Section 17(1) of the *Facilitation of International Assistance Act 2003* states:

“Members of the visiting contingent, the assisting country, and any other country whose personnel are members of the visiting contingent, shall have immunity from legal proceedings in Solomon Islands courts and tribunals in relation to actions of the visiting contingent or its members that are taken in the course of, or are incidental to, official duties.”

(SIG, 2003b)

Assisting countries could also claim jurisdiction over criminal and disciplinary proceedings for conduct outside official duties, with civil, administrative and customary law proceedings being under Solomon Islands jurisdiction (SIG, 2009). Concerns were raised that this immunity deprived citizens of their constitutional right to recourse, allowed RAMSI personnel to operate outside the law, and interfered with the independence of the Director of Public Prosecutions Office and the Minister for Justice (SIG, 2009b). In a submission to the 2009 inquiry into the RAMSI intervention, former Prime Minister and then leader of the opposition, Manasseh Sogavare, stated:

“If the VC [visiting contingent] is here to restore law and order then they must comply with our laws. It does not make any logical sense for them to break our laws in order to make us comply with our laws.”

(p.34)

Here there are parallels with the illiberal means for liberal ends argument. These issues were central to the 2006 case of *Nori v. Attorney General*. Mr Nori sought a declaration that the *Facilitation of International Assistance Act 2003* (FIA) was unconstitutional. The central elements of his argument were that section 17 made the FIA unconstitutional, as did the Act's unfettered nature and how it deprived citizens of their right of recourse in the courts. However, Chief Justice Palmer rejected both these arguments. He stated that it is not unfettered because actions outside official duties are not covered. In addition, section 24 of the FIA subjects the act to the Constitution, so it is under the court's jurisdiction to determine the scope of immunity.

The 2009 SIG inquiry into RAMSI also found that:

“With regard to the view that the immunity is inappropriate and allows RAMSI personnel to operate outside the law, the Committee is satisfied on the balance of evidence presented during the inquiry that this is simply not true.”

(p.78)

Secondly, because of the alignment between legal systems of the participating countries and Solomon Islands, along with immunity not being certain (due to participating countries having the option to decline jurisdiction), the 2009 Committee believed:

“the immunity from legal proceedings provided by section 17 of the FIA Act is not inconsistent with other local laws, does not inherently breed carelessness or abuse, and remains as appropriate as it was in 2003.”

(p.78)

These two findings show that the FIA was successful in imparting a measure of accountability onto RAMSI staff. It escaped the issue that could befall an intervention where local laws do not hold intervention staff to account. For the institutional legitimacy of the intervention, bypassing local legal systems perpetuates an image of the intervention being an outsider. It promotes an ‘us and them’ dichotomy that moves the balance towards the Talentino (2007) scenario. Such a situation delegitimises local courts by reducing their

international legitimacy. It effectively states that local courts are not suitable to fairly try intervention staff, which also negatively influences process legitimacy. Through the lens of the three dimensions of domination, such a rejection of local institutions detracts from any mobilisation of third dimensional domination; if the intervention is reluctant to use these institutions it damages any claim that they are legitimate. Therefore, the FIA is important because it reduces these negative impacts by giving greater recognition to the capabilities of the Solomon Islands judicial system.

Conclusion

The most obvious effect of the first stage of peacebuilding in Solomon Islands was the first dimensional mobilisation of coercive force and the victor's peace to restore basic security aspects of the rule of law. Doing so established the security aspect of the rule of law and developed performance legitimacy. It showed what the rule of law and the security sector could deliver to the public when it works properly. This raised expectations of local institutions, especially in the RSIPF, expectations that could not be met. This led to a decline in process legitimacy, as local institutions central to the rule of law could not deliver the results people wanted and could not adhere to the rigid and equal process that is central to the rule of law. Despite the ambiguities of who the monopoly on violence was restored to, what matters is that it was to an institution that had internalised the rule of law enough to allow the enforcement of its tenets.

The regional nature of RAMSI, its wider structure, and its enabling legislation were all important in establishing, and subsequently protecting, the legitimacy of the intervening institution. It brought a pluralism of views and ideas to RAMSI that increased its legitimacy and palatability to Solomon Islanders. RAMSI's regional nature also allowed it to draw on the familiar rule of law systems in the other countries of the Pacific to develop a form of surrogate legitimacy, overcoming the chicken and egg problem without illegitimate coercive force. Additionally, the resting of ultimate authority with SIG gave international legitimacy to the state and the rule of law by association. It offset any claims that RAMSI was a neo-colonial exercise. Further offsetting any of these claims, was

the compromise established for how RAMSI staff were to be held accountable, detracting as it did from any 'us and them' dichotomy. It was also an endorsement of the local courts and the rule of law.

Finally, RAMSI's mandate was not decided through normative discussions; it established peacebuilding as it is externally not internally defined. In this, it created a hierarchy of tasks and thus took some items off the immediate table. Looking at the rule of law, the mandate assumed it had an intrinsic right to legitimacy and some set form. A matter that is simply false. Because of this, normative discussions about the form of the rule of law did not occur. This undermined all current and subsequent gains, especially those pursued in the subsequent stage around capacity building.

Chapter Seven: The Rise of the Advisor

This stage looks at the institutional component of the Regional Assistance Mission to Solomon Islands (RAMSI) termed statebuilding, which became its focus after the initial restoration of law and order. Statebuilding initiatives divide into two main types: those based on RAMSI staff working in in-line positions, and those where RAMSI staff worked in capacity building/advisor positions. Of the two, capacity building was the more important and appropriate weight is given to its investigation.

The Shift

After the initial process of restoring basic law and order and the monopoly on violence, RAMSI shifted its focus towards the long term project of what it initially called state and nation building (Hameiri, 2007), but would become just statebuilding: nationbuilding being too broad and political. The main method for this was the mobilisation of intervention personnel to undertake the work. Speaking in March 2004, Nick Warner discussed these personnel:

“The nation-building component of RAMSI now consists of about 80 civilian personnel, many of them drawn from ten Australian Government Departments and agencies. Their role is to repair the damage done to essential machinery of government over recent years. Advisers have been placed throughout the justice system to strengthen the country’s ability to deal with the large number of arrests going through the court and prison systems. There are also advisers in the Ministry of Finance, helping Government regain control of expenditure and improve tax collection. Initially many of these advisers have stepped into in-line positions to get the bureaucracy functioning again. But over time they will be training up their counterparts to take on these functions to ensure the change in practices is sustained and sustainable. “

(2004a, p.5)

Two categories of positions define the roles of these personnel: in-line positions focusing on service delivery and restoring ‘essential’ state functions, and capacity building focused positions. The general strategy was that RAMSI staff would work in in-line positions until a local counterpart was trained to do the job, and then

they would step back to a capacity building role (Braithwaite et al., 2010). Of the work done, that regarding capacity building is the most significant, as it would go on to become the central focus of RAMSI, but in-line roles were still vital and will be discussed first.

The Tension Trials and In-line Positions

There was no shortage of tasks for the initial in-line staff and Warner (2004a) describes what some of the most critical ones were:

“Public sector reform is required to get the Government delivering services. Cabinet and parliamentary processes require review and updating. We need to make sure that the watchdog bodies are strengthened, to prevent the re-emergence of corruption. We’ll be looking to restructure and bolster institutions such as the Leadership Code Commission, Ombudsman and Auditor General ... We need to consolidate the early assistance to the justice system. RAMSI has already brought in magistrates, public solicitors and public prosecutors to ensure that the justice system can cope with the large number of arrests and trials.”
(p.6)

Of particular interest to this research are the in-line positions within the courts used to process the large amount of new criminal cases brought by the Participating Police Force (PPF), dubbed the Tension Trials. The processing of these trials was always a priority for RAMSI in order to alleviate the stress the volume of cases placed on the weakened justice system (RAMSI, 2010a). Vacancies in the justice system were an important issue to overcome:

“The tension trials are progressing despite high levels of vacancies in the office of the Director of Public Prosecutions, and with the support of up to 10 RAMSI funded prosecutors over the course of 2006.”
(RAMSI, 2007, p.5)

The same report also stated, “The end of the Tension Trials is in sight.” (p.5). However, progress slowed when the Enhanced High Court Assistance Package ended after 2007 (RAMSI, 2010b). By 2012, 45 Tensions related trials saw completion (AusAID, 2012). Unfortunately, speaking in May 2012 the Director of Public Prosecutions, Ronald Bei Telasasa, said the Tension Trials might not be

completed by mid-2013 as expected, with there being nine active cases and two outstanding warrants remaining (Talasasa in Buchanan, 2012). Due to the staff shortages and the powerful position RAMSI was in, especially in its early years (Averre, 2008), it was able to strive ahead with what it wanted. This shows a first dimensional strategy because RAMSI had control over resources and was able to direct how things went because of this. This allowed the raising of process and output legitimacy in the rule of law, as the courts were functioning again and delivering justice. However, the fragility of first dimensional approaches showed when funding cuts to the justice sector caused the rate of clearance of Tension Trials to fall. Importantly, there were also issues with in-line staff that affected legitimacy.

The first and most obvious of these issues was in-line staff being inexperienced with the operations of *kastom* and mechanisms specific to Solomon Islands. Speaking of this issue one interviewee told the following story:

“So, someone [a RAMSI in-line staff member] who was obviously working at the AG’s chamber at the time had provided legal advice to ... I believe it was the Minister of Provincial Government at the time ... And basically saying that, you know, ‘there is no provision in the law that allows compensation to be paid’ ... the way you [the Western, modern, legal you] hold people accountable is through prosecution and ... imposition of penalties, you know, i.e. jail time, but that is not correct. I mean in Solomons ... you need to understand the local context in which compensation is incredibly important”
(Legal Expert 1)

Any such exclusion of important local systems is likely to harm engagement with institutions as it makes them more alien. The arguments of authors like Boege et al. (2009) and Belloni (2012) around developing hybrid institutions shows that working with local systems is important for better legitimation of the state. Hybridity is an important way to introduce the rule of law and promote engagement, because it creates an area of familiarity. Averre (2008) asks if people have accepted the results of the Tension Trials. He explains that concepts integral to the Western conception of the rule of law, such as reasonable doubt, are misunderstood amongst the general population. From anecdotal observations, he

additionally concludes that the people have not totally accepted the results of the trials and there is a perception that many people deserving of incarceration have gone free. This comes down to a lack of legitimacy in the underlying concepts of the judicial system and a lack of legitimacy in the processes that it uses. There are two causes for this: a lack of knowledge about how the system works, which prevents engagement with formal institutions (Bendaña and Chopra, 2013); and an innate conflict between the adversarial nature of the state justice system and non-state processes of truth and reconciliation. Not addressing these issues in the work of in-line staff through discussions around hybridity undermines other work in legitimising the rule of law, as the concept becomes too distant from local realities.

Defining Capacity Building

As explained earlier, building legitimacy in the rule of law requires a holistic approach (Stromseth et al., 2006). To achieve this RAMSI's capacity building, which began in earnest in 2005 (George, 2008), used a dual model that was officially divided into individual capacity and institutional capacity. A 'stocktake' of RAMSI's efforts established a definition of capacity building as:

“The process by which people, organisations and society as a whole develop competencies and capabilities that will lead to sustained and self-generating performance improvement.”

Additionally:

“This definition is significant because it means that capacity building is more than providing training to individuals – although that's important. It's also about strengthening teams and whole institutions.”

Finally:

“RAMSI's work springs from a view that, whatever the size of a country, there is an irreducible minimum of functions that a state should provide, and some irreducible minimum standards that government should observe.”

(Batley, 2005, p.2)

The 2005/2006 *RAMSI Annual Performance Report* set out what successful capacity building looks like. The Solomon Islands Government (SIG), its institutions, and its personnel should be able to “make better policy choices; develop, implement and sustain relevant and effective programs; identify and solve problems; perform functions; and achieve objectives” (2006, p.21). If one was to create a hierarchy of capacity building, the previous statement would constitute the highest aspect, being developing the capacity of the state; under this is institutional capacity building; and under this individual capacity building. This reveals a three-tier model of capacity building.

Individual Capacity Building

The trainee-trainer, or advisor-counterpart relationship, was at the core of individual capacity building. The fundamental element was the transfer of skills from RAMSI staff (mainly Australians) to the Solomon Islands civil service. The process of individual capacity building is set out in the following diagram:

Figure 4: Individual capacity building (RAMSI, 2007)

It is important to note that the same annual review also stated that no programmes used all nine processes in the diagram, but all use some of them. Generally, individual capacity building focused on the development of explicit knowledge amongst the civil service through the advisor-counterpart

relationship. One interviewee provides a useful of example of what this looks like in practice with reference to the justice sector:

“Part of it is training, there is a whole lot of models of training that might not just be courses, but things like going and sitting and working in the legal aid office in Queensland for two months; or you are actually doing cases with other experienced lawyers; or there might be, you know, actually helping you to do some further study that you couldn't afford to do yourself; or it might be all these sort of things. But, I actually think for the law and justice sector, particularity with the advocates, a lot of it is actually working alongside senior people who can provide an example.”
(Legal Expert 2)

This means the training of the civil service in the Western practices that the trainers are experienced in. Importantly, looking at the diagram above there were opportunities for trainee feedback, but the prevalence of these practices is uncertain. This approach was mainly second dimensional, as the skill base of the trainer, combined with a system where RAMSI established the goals of capacity building, set the shape that the individual capacity building must take. A shape focused on skills tailored for operating within a rules-based environment and promoting the rule of law, as externally defined, as a core state service.

Organisational Capacity Building

A description of what organisational capacity building involved is much harder to find in RAMSI documents. Discussions of it in the 2006/2007 Annual Performance Report are limited to it constituting ministries having greater say on the direction of capacity building, as opposed to the individual advisors and RAMSI. However, an interviewee described it as follows:

“The idea is that the organisation is able to perform the functions that it was charged with doing and that can involve [overcoming] structural challenges, systematic challenges, funding challenges, all of those things. So, sometimes the capacity building support has been to go in and work out ways which would often involve, I guess, an advisor coming in who might be able to help work with local staff about what kind of structure would work better; what laws need to be changed ... So, you can have a policy for a certain ministry that works one way, but the staff are all sort of

tasked with jobs that come from the policy ten years ago, so they are not going to respond ... if someone comes in and helps them think a little about that; it's all a bit [like] strategic planning like that. Sometimes it's also just about, I think, what the roles of each ministry are."

(Legal Expert 2)

From this view, organisational capacity building was about restoring the basic operational and organisational form of institutions through means such as legislative reform, structural changes, defining reporting systems, strategic planning, and defining staff roles. This shows crossover with individual capacity building as this would also invariably involve things like defining roles and working with reporting systems, not to mention that for any institutions to be able to function its staff must be suitably trained. Despite all this, there is more to organisational capacity building: the machinery of government pillar itself.

How does it relate to organisational capacity building? The 2007/2008 RAMSI Annual Report set out long-term outcomes of the machinery of government pillar as:

- Government services responsive to and reaching all people effectively
- Efficient and predictable public administration
- Increased accountability of government and institutions
- Executive and legislative arms of government functioning effectively

(RAMSI, 2008)

The achievement of these outcomes necessitates the development of organisational capacity across Solomon Islands institutions. Additionally, fulfilment of the long-term outcomes above are necessary to meet the vision of successful capacity building set out in the *2005/2006 Annual Report*. However, the relationship between organisational capacity building and the rule of law requires further investigation.

The cementation of the rule of law within the state itself is fundamental to any wider legitimisation of the concept, an argument put forward in Chapter Four. It highlights the importance of establishing the rules of the game, or as RAMSI

terms it creating ‘a rules-based environment’ (2007, p.38). Organisational capacity building is then the establishment of the rule of law within the state itself. It is hard to imagine how the rule of law can be legitimate for the public, and its rules internalised, if the state itself does not obey its own tenets. RAMSI was involved in both establishing these rules and developing the systems to enforce them.

The development of the *Public Service Code of Conduct* (The Code) was used by RAMSI as an example of one of its achievements in strengthening the Solomon Islands public service, where it “provides a minimum standard of conduct and work performance for public officers” (RAMSI, n.d.c, n.p.). This Code emerged after the first Human Resource Management survey of SIG found that only 36 percent of public servants found the General Orders easy to interpret. The Code aimed to provide greater clarity on roles and responsibilities (RAMSI, 2010a). Training was given on The Code throughout the civil service and disciplinary action for breaches of it saw demotions and censures, which is said to have raised awareness about The Code and the importance of ethical conduct (RAMSI, 2011b). Despite The Code, issues around establishing a rules-based environment remain. Speaking about absenteeism in the courts one interviewee explains that:

“It has become the system itself, and I used to joke ‘I think our economy is going down because of habitual absenteeism and persistent lateness.’”
(Legal Expert 3)

A 2012 review by AusAID on law and justice assistance in Solomon Islands also states that absenteeism is a significant problem in the Royal Solomon Islands Police Force as well. Absenteeism is a good proxy indicator for the internalisation of state processes by civil servants, as turning up for work is one of the fundamental rules of any contract. Nonetheless, codes of conduct are an important aspect of creating a rules-based environment, as shown by Gilman (2005). The Code of Conduct and the training of people in its application represents a third dimension strategy of domination, as it aimed to establish its principles as the true way a civil servant should conduct themselves. The disciplinary measures used to enforce it are a simple first dimensional strategy to coerce people into adhering to its principles. Related to the enforcement of the

rules of the game is an important second dimensional strategy and one that was central to RAMSI: accountability.

Accountability was one of RAMSI's core areas and is used to "combat weak administration and improper behaviour" (RAMSI, n.d.d, n.p.). The medium term targets regarding it, before the signing of the 2009 *Partnership Agreement*, were as follows:

- Reports and financial statements on time
- Case backlogs eliminated from accountability institutions
- Citizen complaints facilitated
- Government responding to findings
- Parliamentary review of findings increased
- Electoral systems strengthened
- Women more likely to be elected
- Engagement with MPs increased
- Demand for better governance strengthened

(RAMSI, 2007)

Of the accountability institutions, RAMSI frequently used the Office of the Auditor-General as a success story. Speaking in 2007 RAMSI Special Coordinator Tim George said the following:

"at Independence in 1978 the Auditor General's Office had 29 staff. By the time RAMSI arrived in 2003 there were just two! Indeed the office had effectively ceased to function by 2000; no audits had been tabled in parliament since 1987. Now, I am happy to say due to the combined efforts of the Government and RAMSI, the Office of the Auditor General has 28 staff and has already had 10 special audits tabled in parliament in the last year. Just as significantly the office now also has a five year strategic plan which maps the way forward not only for audits but for capacity building within the institution."

(p.3)

Initially technical assistance from RAMSI was direct, with a focus on clearing the backlog of audits. Over time this transitioned to an indirect model, where RAMSI

staff focused on supporting Solomon Island team members to work out problems and think through multiple solutions (World Bank, 2008).

In terms of strategies of domination, two are central to accountability. First, there is the relatively straightforward first dimensional coercive strategy. The threat of making improper actions public, with the repercussions that entails, is a direct control on decision-making. However taking this deeper, accountability mechanisms can be seen as an anti-two-dimensional strategy. Second-dimensional domination is about setting the agenda and controlling who is at the decision-making table. Accountability aims to bring the public into the discussion (or at least make them aware of it), thus attempting to utilise second dimensional domination visible, reducing its effect. In this way, the ability of elites to further agendas contrary to the values and beliefs of wider society is limited. Yet, if this is to be beneficial to the rule of law, it relies on it existing as a shared belief in wider society.

Capacity Building and the State

At the highest level, capacity building is about the form of the state. This is seen in the definition where it “will lead to sustained and self-generating performance improvement” (Batley, 2005, p.2). In other words, the goal of capacity building is to establish a form of path-dependence. The literature review describes path-dependence as where initial dynamic processes generate self-reinforcing outcomes, in which a change in direction becomes increasingly difficult due to barriers becoming ingrained in political institutions (Belloni, 2012). Therefore, capacity building is about creating a state that perpetuates itself. At the bare minimum, this requires insulation of certain ‘core’ state functions and processes from forces that do not fit into the Western modern state model. Through methods such as establishing the rules of the game, and enforcing these rules through accountability mechanisms and coercive punishments, the ability of the individual (and the societal conventions they embody) to colonise the state is restricted.

At the institutional level, whether it is training the civil service in state operations and service delivery or establishing a rules-based environment through the machinery of the state, RAMSI was concerned with shaping institutions. This shaping established the ways that people can feed back to change those institutions. As described by Foucault, modern state institutions are characterised by a two-way relationship in which the individual is colonised by institutional rules, but also their integration into institutions creates a reverse flow from the individual to the institution.

Looking at the statements that the modern Westphalian state is a product of centuries of incremental development based on the unique characteristics of the area it developed in (Clements et al., 2007; OECD, 2010), this two-way flow can be seen as one of the mechanisms in which society and the state negotiate on its institutional forms. This negotiation is important in legitimising the state, and developing shared-beliefs about what state-society relationships should look like.

Importantly, RAMSI does invite people to participate in a reverse relationship through the partnership rhetoric. For example in a 2004 speech to the *Beyond Intervention Conference* Nick Warner stated:

“And I want to take this opportunity to encourage Solomon Islanders to engage in an open and public dialogue with us about the Regional Assistance Mission and its work, for without such a dialogue there can be no partnership.”
(2004b, p.2)

However, the arguments about RAMSI acting as a parallel system and not aligning to SIG policy objectives and priorities (SIG, 2009), calls of neo-trusteeship and shared sovereignty (Kabutaulaka, 2008), and the reluctance to engage with local culture (Morgan and McLeod, 2006), indicate that partnership was not a strong element of this stage of peacebuilding in Solomon Islands. The process of establishing key definitions was an important manifestation of this lack of partnership.

The capacity building programme relied on externally-derived terms of what a state looks like (the same idea that Richmond et al. (2011) describes regarding Bosnia). The definition of capacity building given earlier, where it is assumed that a state has some irreducible minimum standards and functions, shows this. It is also reflected in claims that RAMSI was too focused on the Western modern state (Morgan and McLeod, 2006) and not adequately engaging with non-state institutions (Fry and Kabutaulaka, 2008; Hameiri, 2012). The broad form of these standards and functions are based around the sovereignty performance criteria set out by Zaum (2009) of:

- Administrative effectiveness
- Human rights
- Democratisation
- Rule of law
- Establishment of a free market economy

The use of these external terms skews the equilibrium described by Foucault towards colonisation of the individual by the institutions because of the removal of opportunities for the individual to shape the institution through definitions. Therefore, the establishment of these terms is a second dimensional strategy because local actors are not involved in the discussion and they are removed from the decision-making table. Upon their establishment, the uptake of these terms necessitates a mobilisation of the third dimension of domination so that the terms are internalised and a shift from terms to definitions occurs. Overall with RAMSI, the individual-institution equilibrium became unbalanced and moved further towards the colonisation of the individual. While this allows the easier and more timely transplantation of a foreign version of the rule of law, it further limits attempts to develop hybridity that could contribute to a more appropriate and palatable version of it.

Capacity Building and Legitimacy

Having established how capacity building operated in this stage, its effects on the legitimacy of the rule of law are relatively straightforward. Fundamentally, and by

its very definition, it was about raising process legitimacy. This meant establishing the rules themselves that the rule of law is based on so that the state can operate in a cohesive manner. It also meant establishing the means of enforcement for those rules. The black box assumption within capacity building was that this increase in process legitimacy also leads to improved performance legitimacy, but as shown in the 2012 AusAID evaluation of law and justice assistance in Solomon Islands, this may not be the case.

An important aspect of capacity building was the development of shared belief legitimacy in the rule of law within the public service. This is important, as it is difficult to see how the public would internalise the principles of the rule of law, if those enforcing them do not. At the extreme end of this is corruption, which significantly damages legitimacy of institutions (OECD, 2011). Wippman (2010) tells us that building the rule of law requires creating a public commitment to what makes it up, requiring challenging potentially internalised norms (Brooks, 2003). In this, the everyday things matter. Building commitment to adhere to the small things is important in internalising the rule of law. People most often take these for granted and they are central in building shared belief legitimacy. Establishing a rules-based environment within the state develops a core nucleus of the population who have a shared belief in the rule of law. Fukuyama (2008) talks about the importance of having a core national elite loyal to the concept of the nation for developing national identity. Establishing the rule of law amongst civil servants can be seen as establishing this elite with regard to a belief in the legitimacy of the rule of law. The expectation being that they then spread their belief amongst the wider public.

The heavy focus RAMSI placed on capacity building of the state and external definitions had risks that could harm legitimacy in the rule of law. The literature review has already covered the core issues of this. For example, Bendaña and Chopra's (2013) discussion around the focus on the state ignoring important cultural issues regarding the rule of law. There is also the argument raised earlier that by ignoring non-state systems and things that do not fit into the traditional Western modern state mould, there is the potential that the rule of law is seen as too different and not relevant to people's everyday lives. One needs only read the

example given in the literature review regarding Timor-Leste to understand the potential impacts of this: potential re-emergence of conflict leading to a decline/collapse of the state; or less dramatically, institutions just cannot deliver what locals demand of them, because they lack the appropriate systems and drivers. This would lead to declines in process, output and shared belief legitimacy. Finally, Crawford (1993) warns that interventions that rely on external definitions risk becoming paternalistic, racist, and exploitative. The emergence of any of these would severely damage shared belief legitimacy, as people do not believe the institutions work for their benefit and ultimately that is what matters most.

Conclusion

In this period of RAMSI, the focus was on peacebuilding through in-line positions and capacity building roles. Both focused on institutions and RAMSI implemented the institutional peace. In these early years, RAMSI was in a strong position and held a considerable degree of power. In-line positions focused on restoring the 'essential' elements of the state and rule of law apparatus like the courts. While initially successful, the vulnerability of this approach to changes in funding became apparent when funding to the courts shifted and the rate of Tension Trial clearances fell. In-line staff also had limited experience with the local system, which increased the distance between state institutions and the people. These issues undermined the gains in legitimacy made by the initial success of in-line staff.

Capacity building focused on re-establishing the rule of law within the state. A three-tier strategy for this is apparent. At the whole of government level, the object is to develop the proper institutions so the state form becomes self-perpetuating and the institutionalisation of the rule of law was a key element in establishing this. At the institutional/organisational level, capacity building worked to develop a 'rules-based environment' so that individuals interacted with the organisation in ways aligned to the goal of creating a self-perpetuating state. Methods for this included the creation of a code of conduct and the development of accountability mechanisms. This created the 'right' civil servant. Finally,

individual capacity building focused on giving civil servants the ‘right’ skills and knowledge to draw upon in their work. The primary mechanism for this was the hierarchical trainee-trainer relationship. It was with capacity building that the greatest weakness of RAMSI became apparent: the lack of normative discussions on key definitions that has delegitimised the rule of law, situating it too far away from the local. RAMSI’s work in this stage was also highly visible. This led to mounting pressure that it was acting above its legislated position. This eventually necessitated a move from the institutional peace.

Chapter Eight: The Retreat from View

This final period, from 2007, was one of considerable change for the Regional Assistance Mission to Solomon Islands (RAMSI). As a response to growing academic criticism, pressure from politicians, and the 2006 riots (see Chapter Three for more details) it undertook a shift towards the constitutional peace. The trends dominating this stage were less visible, relying more on the third dimension of domination and dealing with shared belief legitimacy.

The Shift

Along with the increased use of non-capacity building-based strategies, this stage saw two important shifts that affected RAMSI's own legitimacy. The first was a realigning of RAMSI with Solomon Islands Government (SIG) priorities, embodied by the 2009 *Partnership Framework*. Former Special Coordinator, Nicholas Coppel, shows this shift in the following statement:

“the focus of RAMSI's activities has been developed over the years and, *particularly since 2007*, in extensive consultation with Solomon Islands Government Officials and ministers and other stakeholders.”
[Emphasis added] (2012, p.2)

In this respect, it is evident that a shift to the constitutional peace occurred, where bottom-up approaches begin to emerge in conjunction with top-down ones and working with the local elite is more important (Richmond et al. 2011). It is important to note that the rhetoric of this partnership was always present in RAMSI, but as explained by Braithwaite et al. (2010) often the reality did not live up to the rhetoric for staff who found “capacity building [of people] frustrating and found it easier to ‘do it yourself’ and ‘get on with the job’” (p. 57). The other significant trend was the stepping back of RAMSI from the spotlight. By reigning in its public relations and changing the focus of the Participating Police Force (PPF) from frontline policing to capacity building, RAMSI retreated from the public eye to undertake the technocratic work of statebuilding in a more apolitical environment. Combined with this was the use of two perhaps counteracting rhetorics: that Solomon Islanders are striving forward with vigour to rebuild the state, and that Solomon Islanders need to step up into the gap that RAMSI has

created to stop their country falling back into unrest. Importantly, this stage saw the continued use of the strategies described previously regarding capacity building, but the public image of these strategies changed.

Stepping Back

Timing wise, this shift is seen in the light of the 2006 riots, growing concern about RAMSI acting as a shadow government, and tensions between RAMSI and the Sogavare Government. These issues were harming RAMSI's legitimacy and threatening the work it was doing, necessitating a change in policy and practice. One interviewee, with respect to RAMSI's public relations, described the move away from the spotlight:

“The RAMSI PR [public relations] was in overdrive [when RAMSI first arrived], everything they did was fantastic. You know, they were out in the community holding community events, there were national events, there were bands and concerts funded by RAMSI; all manner of things, t-shirts everywhere, caps everywhere, you couldn't walk 5 metres down the road without running into someone who had some sort of RAMSI paraphernalia. Then it finally dawned on them that this is not helpful. This is really unhelpful because it creates a perception about a completely parallel police force, and parallel civilian component that was superior to the SIG systems and to the [Royal Solomon Islands Police Force].”
(Legal Expert 4)

This exemplifies an important strategy of RAMSI's: the depoliticisation/technocratisation of the intervention. This process had been occurring across the lifetime of RAMSI. In the beginning, when the focus was on basic law and order, RAMSI speeches made particular reference to the intervention as one of nation building (Warner, 2003b; Warner, 2004a; Warner, 2004b; Warner, 2004c). However, after the first anniversary of RAMSI the politically laden term of nation building disappeared in RAMSI speeches, to be replaced by the much more value neutral and technocratic 'statebuilding'. The shift from stage one described in Chapter Six to the statebuilding in Chapter Seven, was a technocratisation in itself with its focus on the role of technical advisors. The further mobilisation of the depoliticisation/technocratisation process strategy was particularly useful as a reaction against the growing discontent directed at RAMSI.

As explained earlier, this process hides the political nature of an intervention and marginalises the contributions of the general citizen (Heathershaw, 2008; McKinlay et al., 2013). Akin to the process described in the literature review where Europeanisation in Bosnia through its technocratisation portrays itself as a civilizing action and the only real option, RAMSI's work became a matter of technical fact where the application of the right tools would transform the country from bad to good.

Initially the intervention was highly political. This is a by-product of the initial political, not humanitarian justification for the intervention: that the Solomon Islands might become a failed state and become a significant risk to the region (Howard, 2003). The political narrative behind the intervention, although it did draw on the rhetoric of Australia as a regional power looking after its neighbourhood, made RAMSI vulnerable to delegitimising influences like claims of neo-colonialism, as Australian self-interest was more evident. As described in Chapter Six, the regional nature of RAMSI was also important in offsetting this somewhat, as it disguised Australian hegemony (disguised, as Australia was still the main player). The downscaling of RAMSI public relations was important here simply because it made RAMSI and the work it was doing (like building legitimacy in the rule of law) less visible, less likely to be discussed, and less likely to be viewed as up for debate. It disappeared behind the veil to become part of the machinery of government. For the rule of law, the technocratisation of its development hides its nature as a cultural construction.

Additionally, this technocratisation portrays the work done as a purely rational ordeal, one, where through the correct process and the application of the right tools, problems can be broken down and appropriate solutions found. It makes peacebuilding and development a science. Doing so draws upon the twin ideas of the neutrality of rationalistic investigation and of a mechanistic conception of the world that exemplify the intrinsic legitimacy of scientific process. Considering this reveals the technocratisation of RAMSI as a particular strategy; which develops a shared belief in the intrinsic legitimacy of the rule of law by portraying its development as a neutral and rationalistic endeavour.

The downshift in RAMSI's public relations also applied to the Royal Solomon Islands Police Force (RSIPF) and combated the pressure that constantly exemplifying the success of the PPF put on the RSIPF to deliver a standard of justice outside its capacity. Related to this is the transition of PPF officers away from front line roles to focus "on increasing the RSIPF's institutional and personal capacity" (RAMSI, 2012a, p.1). Nicholas Coppel explained this process:

"The PPF in consultation with the RSIPF, have, in recent months, conducted a comprehensive review of all 13 provincial police posts that are supported by RAMSI officers. The conclusion of the review is that the time is now right for the RSIPF to step up and take the lead at the police posts that have, for the past nearly eight years, been supported by RAMSI. As a result, over the next two years, we will be gradually withdrawing RAMSI personnel from each of these police posts."
(2011a, p.1)

Reducing the PPF presence meant Solomon Islanders had to engage with the local rule of law apparatus through the RSIPF. Fox and Miller-Idriss' (2008) discussion about the importance of everyday taken-for-granted interactions also applies to institutions. Regular, everyday interaction with the RSIPF is significant in developing legitimacy in it as an institution and in the rule of law, which it represents. It builds taken-for-grantedness, weaving the rule of law into the fabric of everyday life in the minds of the public.

The shift to capacity building of the RSIPF was in line with the general capacity building focus of RAMSI. Taking the argument of Tyler (2003) that perceptions of fairness in the law and order system are paramount in building legitimacy, the shift to capacity building and mentoring is about developing the RSIPF into an institution which is perceived as fair, and hence increasing process legitimacy. With this capacity building, an important focus was on using PPF advisors:

"to improve the RSIPF's performance in the areas of professional standards, human resources, learning and development, strategy and policy, public relations, finance, and logistics"
(Coppel, 2011b, p.4)

This is the same argument discussed in Chapter Six where the establishment of the rule of law within the civil service, primarily through third dimensional means, is vital for wider legitimisation of the rule of law. In light of the discussion above regarding depoliticisation/technocratisation, the move to capacity building in the PPF is also another step in this direction: it increases the distance between RAMSI and the public, further reducing public presence.

Realigning

While the reduction in public relations reduced the more visible aspects of RAMSI's parallel nature, the procedural and strategic situation changed with the creation of the *Partnership Framework*. The formation of this document concluded in April 2009, Cabinet endorsed it on 14 May and the Forum Ministerial Standing Committee did so on 15 May 2009 (SIG, 2009b). Former Special Coordinator, Graeme Wilson, described the Partnership Framework as:

“a living document [that] provides a strategic work plan to guide RAMSI's assistance to the Solomon Islands within the Mission's mandate and in accordance with Solomon Islands Government priorities.”
(Wilson in SIG, 2009b, p. 95)

One of the core principles of the document exemplifies this: the alignment of RAMSI activities with SIG priorities and objectives within RAMSI's mandate (SIG, 2009c). The principles of capacity building, a topic that was described as cutting across all pillars, is also relevant. It stated RAMSI would:

“ensure that its capacity development processes are increasingly aligned with Solomon Islands needs and expectations. RAMSI will directly support SIG agencies to:
- jointly plan for, monitor and report on progress towards agency self-reliance”
(p.15)

The clearest implication for legitimacy in the rule of law is that it helped undo some of the damage done when RAMSI was making a show of its work and not aligned with SIG priorities. Aligning with SIG priorities is a meaningful imparting

of international legitimacy onto the state, which was necessary when the lack of ties between RAMSI and SIG became apparent.

The realignment of capacity building to the needs of Solomon Islands on the surface gave more room for individuals to colonise institutions and to bring local elements into the state apparatus. However, the capacity of the trainer to undertake work outside their background becomes the limiting factor. The majority of RAMSI staff were Australian, their background is in the Australian system and their ability to respond to certain local desires therefore limited. The realignment of RAMSI priorities did not change the trainer-trainee relationship and authority in this relationship still rested with RAMSI. Nonetheless, the appearance of increasing this reverse flow from trainee to trainer is important in combating the scenario described by Talentino (2007) and improves buy-in to the whole enterprise. It protects gains made in building legitimacy in the rule of law. However, this does not address the underlying issue of the individual-institutional equilibrium. This raises the question of if gains can continue to be protected.

The Striving Forward Discourse

In conjunction with downplaying RAMSI activities, there was an increased focus on the role of Solomon Islanders in rebuilding the country in RAMSI discourse. Graeme Wilson, for the sixth anniversary of RAMSI, gave a particularly stirring example of this discourse in a speech. With allusion to creating a well-governed, prosperous and peaceful Solomon Islands, he stated:

“I think this can be best seen in the renewed vigour that we see all around us in the day-to-day workings of this nation. It shines through in the enthusiasm of politicians, supported by hard-working public servants, to consider and debate new legislation. It shines through in the commitment of the Government to continue the difficult process of economic and political reform, to pursue much needed work on anti-corruption measures and to establish a Truth and Reconciliation Commission. And it shines through in the enthusiasm of ordinary Solomon Islanders in all walks of life for moving forward, for putting the past behind them and building a better future for their children and their children’s children.”

(Wilson, 2009, p. 2)

This approach focuses on developing legitimacy through fostering a shared belief in what the country is moving towards, i.e. a functioning modern state in the Western model, built upon the rule of law. The development of this shared belief therefore requires a mobilisation of the third dimension of domination to establish that truth. As explained in the literature review a discourse becomes truth when it establishes a hegemony over other competing discourses.

RAMSI's extensive use of statements where Solomon Islanders are portrayed as the ones moving the Solomon Islands' state towards an end already established by RAMSI and the wider international community, therefore, attempted to build hegemony about the truth, or rightness of the said endpoint. For if Solomon Islanders are doing these things with such vigour, they must believe in the goal, or at least that is the intended message to the recipients of this discourse. This is done by what is described in the literature review and termed the deferral of reference by Cooper (1993). The situation described in the above quote, and in many other RAMSI speeches, refers to an idealistic world where all Solomon Islanders are cohesively (a term that must always be treated as suspect according to Sutherland (2005)) striving towards a common goal, both from the top-down and the bottom-up. It is from this imaginary world that these statements draw their ability to hegemonise new truths and build shared belief legitimacy in the rule of law.

The Step-up Discourse

On the other side of the discourse described above highlighting the good that Solomon Islanders are doing, this period saw an increase in calls that Solomon Islanders need to step up into the space created by RAMSI, and undertake both bottom-up and top-down action to ensure progress. These calls increased as RAMSI approached its transition in 2013, with corruption targeted as a particular issue of importance. Tim George discusses the evils of corruption in his address to the Transparency International Pacific Regional Conference (2007):

“It is that hidden ability of corruption to corrode the values of good people, to undermine the best intentions of a social group or indeed a

nation that has really struck me since I came to live in Solomon Islands. The corrosive impact of corruption in undermining institutions and people's confidences in them has more far reaching consequences in a relatively small and developing nation.”
(p.5)

In his address for the 2010 International Anti-corruption Day, the then RAMSI Special Co-ordinator said the following:

“You, the people of this nation, through your churches, through your community leaders and your members of Parliament must demand better from your public service, your government, your leaders and yourselves. The Solomon Islands public service is accountable to your leaders who are in turn accountable to the voters – that is you. This is what good governance is all about. Both corruption and anti-corruption stops and starts with you the people of Solomon Islands.”
(Wilson, 2010, p.3)

These, and a plethora of other statements and advertisements, reiterate the fact that for anti-corruption initiatives to be successful everyone must take responsibility and make a stand against corruption. This discourse portrays corruption, and the damage it does to the state and communities, as a threat that Solomon Islanders must stand up to in opposition.

Chapter Four shows the importance of threats in developing shared-beliefs (Hjerm and Schnabel, 2010). Corruption is such a threat and a suitably internal one to reflect the shift to an individual, internal conception of security described by Longo (2013). Solomon Islanders must pull together to fight corruption, which threatens to undermine their country. Additionally, in Western discourse strengthening and adherence to the rule of law is a fundamental element in combating corruption (Mendonça and Fonseca, 2012). This shows a third dimensional strategy of domination that aims to define corruption's place in the world and the peoples' place in relation to it. It expresses a situation of opposition and tension, where corruption is eating away at the state and depriving Solomon Islanders of state services. As the rule of law is fundamental to addressing corruption, if people are to confront corruption in their everyday lives and hold politicians to account, they must apply the rule of law. Such an application,

especially every day, is essential to the internalisation of the rule of law and the development of a shared belief in it.

The effects of this anti-corruption rhetoric also applies to wider RAMSI discourse regarding the need for all Solomon Islanders to address law and order issues as it is ‘everyone’s responsibility’. At the opening of the Lata Police Housing Nicholas Coppel, said, “I urge the community here in Temotu to provide strong support to their police force in the coming months... Law and order is everyone’s responsibility” (Coppel, 2011). In a related statement, a RAMSI PPF officer said:

“Law and order is everyone’s responsibility... neither the Royal Solomon Islands Police Force, nor RAMSI will be able to cover the entire country, all of the time. Community elders must show leadership and guidance for their community in helping to stamp out criminal behaviour.”
(Tsimes in RAMSI, 2011c, p.1)

Essentially, to address these problems people need to apply the rule of law in their everyday lives. In the language of Fairclough (2001), these texts imply a members’ resource that can be drawn upon that sees rule of law-based approaches as the appropriate means to address corruption and other law and order issues. Yet, as has been discussed in previous chapters, there are other systems of conflict resolution in Solomon Islands, other members’ resources to draw on when interpreting information. The conflict between these different members’ resources causes problems.

Conclusion

Many interesting things occurred in Stage Three and it is where the utilisation of the third dimension of domination was most prominent. Due to the criticism that RAMSI and SIG did not align, an overall shift towards the constitutional peace occurred. An important part of this was RAMSI realigning with SIG and stepping back from the spotlight. Part of this step back was a downplaying of RAMSI’s public relations and a reduction in its general frontline presence. Stepping back resulted in more engagement between Solomon Islanders and state institutions. This is important in building ‘taken-for-grantedness’. It also helped remove

RAMSI from the public spotlight and make it disappear into the normal everyday operations of the state. RAMSI depoliticised and technocratised itself, developing its own taken-for-grantedness. Along with protecting RAMSI's own legitimacy, it further hid the political nature of the rule of law and portrayed the work done to strengthen it as a value neutral, rationalistic endeavour.

In addition to this reorientation, two important discourses saw their strongest application in this period, both relating to the importance the constitutional peace places on mixing top-down with bottom-up approaches. The first is that Solomon Islanders are striving onwards in making the country a better place. The second is that they need to step up into the space RAMSI has created. The first of these developed shared belief legitimacy by referencing an imagined world where all Solomon Islanders are developing the rule of law. Where this imagined world intersects the real one is the site where truth is attempting to establish itself. The establishment of this truth is a process of developing shared belief legitimacy. The other, somewhat contradictory, discourse pays particular attention to corruption. It portrays corruption as a threat that Solomon Islanders must rally together to overcome through utilising the rule of law and its associated apparatuses. This works to develop shared-belief legitimacy in the rule of law and establish it as the members' resource to draw upon when confronted by the issue of corruption.

Making a concept, like the rule of law, legitimate is about making it into the primary members' resource that people draw upon to interpret a given situation. RAMSI has worked throughout the three periods discussed to establish the rule of law as the dominant members' resource. However, if this research itself is to influence the development of the members' resources of the reader, the information contained above needs to be related back to the research questions and the wider field of development.

Chapter Nine: Drawing Together

This thesis has sought to understand how the liberal peace agenda develops legitimacy in the rule of law in post-conflict states, investigated through a case study investigation of the Regional Assistance Mission to Solomon Islands (RAMSI). It has attempted to make visible the different strategies of domination used, understand the impact of the intervention's legitimacy on the work, and draw conclusions about the long-term implications of how the liberal peace agenda operates on sustainability and development. Chapter One began with establishing the research and situating it within the wider topic of international development. Important contextual information about the case study was then set out in Chapters Two and Three, containing information on the history of Solomon Islands and RAMSI. Following this, a literature review set out the wider academic debate around peacebuilding, the rule of law, and legitimacy. The last chapter before the discussion of the three stages of RAMSI developed the research methodology. The key discussion of the thesis was broken into three chapters, each addressing a different chronological period of RAMSI: initial intervention, the shift to statebuilding, and the retreat from view. Finally, this concluding chapter draws on the findings contained in the discussion to answer the research questions established at the beginning of this thesis.

The Effectiveness of First Action

The process for creating the preconditions for wider development work is the most successful when it is the most distant from the mainstream development agenda, as embodied in documents such as the *Paris Declaration*. Of course, these initial gains occur in a completely different environment than those attempted when the security aspects of the rule of law are established. Through entering the country at the right time, utilising overwhelming force, and structuring the intervention in a way mindful of its own legitimacy, the liberal peace agenda has been shown to be able to effectively re-establish the monopoly on violence to a legitimate institution and achieve broad-based local support. After this initial action, the utilisation of in-line staff is important in restoring basic functionality to the state, especially amongst institutions that interact frequently with the public, like the judiciary. It is through these actions that a

semblance of legitimacy in the rule of law is established, which at least allows the exertion of coercive force to ensure a degree of compliance with the tenets the rule of law depends on.

The first actions of RAMSI described in this thesis highlight a key goal of the contemporary liberal agenda and one it is well suited for: rapidly addressing a crisis through the achievement of clearly defined targets relating to symptomatic issues. The word ‘symptomatic’ is not used to belittle the work done: it was very important and saved many lives. It merely highlights that stopping violence, extortion, and intimidation (by restoring a basic form of the rule of law) is not enough to achieve lasting peace. Peacebuilding, and aid more generally, has shown it is able to deal with clearly defined issues, things like removing guns from communities, or getting ‘X’ item to ‘Y’ people. These tasks are no small feats and require the mobilisation of considerable resources. They are successful because they are more readily broken down rationally and prescriptively planned. These tasks are closest to the types of issues that rationalistic investigation is best at addressing. Undertaking this kind of work is a strength of the liberal peace agenda and an important focus. However, it is with the fuzzy problems where more diverse and complex strategies are required. Fuzzy problems lack clearly defined parameters and have no simple solution. These are issues such as corruption, climate change, or achieving the internalisation of the rule of law. Regarding this last issue, liberal peacebuilders have shown they can mobilise a comprehensive and diverse range of tools for its achievement, in addition to those used initially.

Capacity Building and then Some

Developing legitimacy in the rule of law requires addressing the four elements of legitimacy identified by the OECD (2010) and achieving this requires a diverse range of strategies. RAMSI has shown how an intervention based solidly on the liberal peace consensus can mobilise such a range of strategies, both intentionally and unintentionally (unintentionally due to emergent properties from RAMSI as an organisational system). Of course, the dominant approach of contemporary peacebuilding, one that is present right across development, and one that was at

the core of RAMSI, was capacity building. This approach assumes that the development of state capacity leads to improved delivery of state services and empowers the state to address the root causes of conflict, inequality, and poverty.

Capacity building is not that simple however, and necessitates an integrated approach addressing three different levels of the state: the individual, as characterised by the trainer-trainee relationship; the organisation, characterised by developing an organisational culture that internalises the rule of law; and the government, characterised by developing a self-perpetuating state based on the rule of law. The trainer-trainee system, even with trainee led reviews and trainer selection, is a hierarchical relationship of imbalanced power and skill transfer: I have the knowledge to get this country working and I am going to teach it to you. The 'proper' knowledge, skills, and beliefs (as defined by what is needed to operate within a given institution) are the things being added to the individual to build their capacity. Organisational capacity building creates a civil service that interacts with and within the organisation in the 'proper' (as defined by the proper structure needed to form the modern state) way. Constraining and shaping behaviour through things like codes of conduct, legislation, accountability mechanisms, and the individual capacity building achieves this. Finally, at the wider governmental level, capacity building focuses on building the right institutions so that they form a cohesive unit that perpetuate the form of the state and allow it to slot into the international system.

For the Western state model and the rule of law, it is the rule of law all the way down. The government is made of institutions that utilise the rule of law to function; they are comprised of individuals who interact with the institution/organisation in a tightly rules-based structure; and the skills and knowledge these individuals draw upon is premised on the idea that society should be organised via the rule of law. It is this conception of the state that the liberal peace consensus and wider development practices develops, as this is the kind of state that is assumed as intrinsically legitimate. As long as the ultimate goal of capacity building is to develop institutions as they are externally defined, the capacity building relationship will be one of hierarchical, one-way, skill transfer. It is hard to deny the neo-colonial overtones of this relationship.

It is from the assumptions about what a proper state looks like, and what aspects are intrinsically 'true', that the contemporary consensus is able to set the agenda of the primary actions needed to restore process and output legitimacy in the state. For RAMSI this was epitomised by the mandate. The liberal peace agenda includes tasks like establishing a market-orientated economy, adhering to human rights, and shaping behaviour according to the rule of law, all prominent themes in development work. The belief that these aspects, and others, form a true definition of the state and are hence legitimate due to this claimed 'truth' is misplaced: all of the aspects are culturally constructed. Primarily the agenda establishes a hierarchy of tasks that lead to peace and development. Unavoidably, placing these goals at the top of the agenda displaces other goals that may be more contextually relevant. Certain key issues are not then identified or addressed, the dangers of which have been shown regarding Timor-Leste. This shows a second dimensional strategy of domination. What is more, the portrayal that the contents of the mandate, or the liberal peace consensus, are true is in turn a mobilisation of a particular discourse aimed to make people believe that the associated concepts and institutions are intrinsically legitimate.

The liberal peace consensus, with its focus on the intervention being dependant on permission from the host country government and the utilisation of a non-absolutist conception of sovereignty, which allows the host country to remain sovereign, gives international legitimacy to the state. It acts as an endorsement of the capacity of the state, and the rule of law by association, offering a form of legitimacy. RAMSI showed how this could be reinforced for the rule of law by establishing a system where staff are at least partially accountable to the local rule of law apparatus through shared jurisdiction. This is important because donor institutions are not just accountable to the citizens in donor countries but to the recipients as well.

The liberal peace agenda, as embodied by RAMSI, has also shown a capacity for acknowledging the importance of developing shared-belief legitimacy. Due to the relationship between belief and truth, it is the third dimension of domination that is the most powerful in developing this kind of legitimacy. Discourse, as a key

factor shaping how we see the world, is central to shared-belief legitimacy. For RAMSI there were two main discourses of importance. The first revolved around the idea that Solomon Islanders were collectively striving towards making Solomon Islands a better country, based on the rule of law. The second focused on the need for Solomon Islanders to step up into the gap created by RAMSI to address corruption by utilising the rule of law apparatus. These discourses are an attempt to transplant externally-derived concepts into the local environment and develop shared-beliefs around them.

Promoting engagement between locals and local institutions is also important. Local ownership is central to these interactions, as is ensuring the institutions serve the people. These interactions, especially the everyday taken-for-granted ones, build legitimacy in the institution and a belief in its place in society; if the institution works properly that is. The utilisation of discourse and other strategies that build taken-for-grantedness are powerful because they are the least visible. Their use in conjunction with more visible work, like capacity building, is necessary to form a comprehensive strategy for developing legitimacy that addresses all four of its dimensions: process, output, international, and shared-belief. An intervention or organisation is in a strong position if it is able to mobilise a diverse range of strategies addressing the four types of legitimacy. However, if the institution is not mindful of its own legitimacy this can be undermined.

The Importance of Legitimacy in Developing Legitimacy

To undertake any development/peacebuilding work a concern for the legitimacy of the organisation carrying out the work is paramount. If locals perceive an institution, be it an intervention, foreign state department, or NGO, as illegitimate and in opposition to legitimate local institutions, so too will they perceive its work. It is more likely that the work is seen as some sort of neo-colonial exercise and that locals are being pushed to conform to outside norms. An ugly institution makes for ugly work. RAMSI has shown the importance of avoiding this. Firstly, a regional approach, as opposed to an international or

country-based one, is important. It allows the institution to draw upon shared histories and institutional commonalities, such as a shared tradition of common law. This produces a type of surrogate legitimacy allowing the institution to perform its initial work without excessive coercion. A regional approach also brings a plurality of views into the institution and reduces perceptions of domination by a particular country. The situation where interventions are dependent on the host country and designed to operate within and below the host government also protects legitimacy. It further limits any claims that the institution is acting in a neo-colonial or dictatorial manner, depending on the legitimacy of the recipient country's government of course. Finally, the development of a system where development/peacebuilding staff are accountable for their actions under local jurisdictions lessens any 'us and them' rhetorics that may be present.

Along with getting the initial form of the intervention/institution correct, the organisation needs to respond to the changing environment to protect its legitimacy. For RAMSI the main moment where this was crucial was with the tensions that emerged in 2006 (described in Chapter Three). RAMSI responded by realigning to be more in step with SIG and developing its community outreach programme. Such relatively straightforward actions are important in maintaining legitimacy as they give, or at least seem to give, local people more agency in the process. They build ownership of the work done amongst the local people. It is ownership, the feeling that your beliefs are colonising the work, which is crucial in developing shared-belief legitimacy.

However, counter to the promotion of this increased ownership is the process of depoliticisation/technocratisation that directly reduces it. This process, that causes an institution to become another cog in the machinery of government, is a powerful tool to hide the unappealing political and cultural aspects of an institution/concept, and to develop shared belief-legitimacy. Developing taken-for-grantedness achieves the first aspect. By simply not being seen as much, or seen in ways that slot into everyday life, the institution becomes naturalised into the local state ecosystem that is meant to work for the benefit of all. Additionally, portraying the work as a technocratic/scientific process develops shared-belief

legitimacy by drawing on the idea that such a process is value neutral. All the intervention is doing is applying rational tools to unpick a mechanistic world then stitch it back up in a way best for everyone. It is the portrayal of the process as a technocratic exercise that reduces local ownership. It makes 'development experts' into the only ones able to properly understand the process and do the work, and as discussed regarding Bosnia such exclusion of the public can have destabilising effects. This exclusion reflects a fundamental flaw in the contemporary agenda that exposes the value-laden nature of peacebuilding and development; a flaw that necessitates further explanation.

A Disturbed Equilibrium

The central weakness of development, peacebuilding, and RAMSI are their reliance on externally-derived definitions of concepts such as the rule of law, the form of the state, or development itself. It is from these definitions that the direction of all subsequent work is set. They are the foundations of institutional path-dependence. All too often, it is assumed that the concepts are intrinsically legitimate and that transplanting them into another country is a simple matter of creating the right environment for them to take root. This ignores the culturally constructed nature of these concepts. The formation of the Western idea of the state and concepts such as the rule of law emerged through a long history of interaction between the state and individuals, where state institutions shaped the individual, but individuals were able to feedback and change institutions as well. Together this formed an equilibrium between the colonisation of the state and the colonisation of the individual. This process of give and take was central to developing legitimacy in different concepts and institutions. People had true ownership over them because they shaped their development. Taking Western concepts and applying them without change in a new locality ignores this crucial (but time consuming) method of developing legitimacy. What is worse, it sets these transplanted concepts up in direct opposition to local ones that have developed over time in such a way. For the rule of law, such local concepts include customary law and restorative justice practices. In a situation of opposition, shared belief legitimacy is very difficult to establish and hamstring any

establishment of 'truth'. Without truth and belief, internalisation is not possible and without internalisation, the rule of law can only ever be coercive.

While in opposition both cannot be legitimate, they are two separate members' resources. However, it is not possible, for the rule of law anyway, to just do away with the introduced conception and pursue the local. If a country wants to engage internationally, a certain adherence to the rule of law is necessary, as the rule of law has been internalised by international institutions. Over time, it has been integrated across organisations and the rule of law now forms a foundational element of the international system. For example, dominant aid modalities such as general budget support and sector wide approaches necessitate functional, rules-based public financial management in the recipient country to ensure accountability. Therefore, the way forward is to develop new, locally specific, members' resources; ones that combine aspects of introduced conceptions with local views to create something that while unique, is recognisable to all parties. It is about developing not just hybrid institutions, but hybrid definitions, because it is from these definitions that we organise our society. How this is to occur is obviously a huge question, and a major area for further research, but some work has been done, like that by Clements et al. (2007). It is also something that becomes more difficult over time. As more structures are built, and more self-reinforcing path-dependence loops set up, it becomes harder and harder to change these foundational concepts.

Conclusion

It is undeniable that RAMSI and the contemporary agenda have been extremely successful in many aspects. This is especially true with the initial restoration of the security and output aspects of the rule of law. The previous three chapters have also revealed an ability to mobilise different strategies (both intentionally and unintentionally) that target the four different dimensions of legitimacy. Taken with the ability to respond to changes in the host country environment and protect the legitimacy of the intervention, the contemporary agenda has shown considerable awareness of what is required to develop legitimacy in the rule of law. However, for all the strengths of development, peacebuilding, and RAMSI

and the robustness of their strategies, a reliance on externally-derived definitions undermines it all. To achieve lasting peace (without the application of a lot of force over a long time to remove oppositional beliefs of what is true) new, hybrid, and contextual concepts need to be established. Hybridity is not about throwing the liberal agenda away. The processes used are not broken. Instead, they are diverse, complex, comprehensive, and designed and implemented by smart, passionate people. The problem is not that the concepts assumed as true are false; they are no more true or false than any other belief. What matters is that a stable state needs to reflect the beliefs of its people but also reflect internationally held beliefs if it wants to engage in the international system. It is the conflict that arises when these differ that undermines everything. The way around this issue is having the conflicting ideas meet and co-colonise each other, taking strengths from both sides to create something new, but also familiar. This creates a new foundation for development and sets it along a different path: one that is sustainable, unique to the locality, and just.

Reference List

- Albrecht, P., & Buur, L. (2009). An uneasy marriage: non-state actors and police reform. *Policing and Society: An International Journal of Research and Policy*, 19(4), 390-405.
- Allen, M.G. (2009). Resisting RAMSI: intervention, identity and symbolism in Solomon Islands. *Oceania*, 79(1), 1-17.
- Allen, M.G. (2012). Land, identity and conflict on Guadalcanal, Solomon Islands. *Australian Geographer*, 43(2), 163-180.
- Allen, M.G., Dinnen, S., Evans, D., & Monson, R. (2013). *Justice Delivered Locally: Systems, Challenges, and Innovations in Solomon Islands*. Washington DC, USA: The World Bank. Retrieved from: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/201309/27/000356161_20130927130401/Rendered/PDF/812990WPoDLoSeoBox0379833BooPUBLICo.pdf
- Alvesson, M., & Kärreman, D. (2000). Varieties of discourse: on the study of organizations through discourse analysis. *Human Relations*, 53(9), 1125-1149.
- Anderson, M.S. (2012). Legitimacy in state-building: A review of the IR literature. *International Political Sociology*, 6(2), 205-219
- Andrieu, K. (2010). Civilizing peacebuilding: transitional justice, civil society and the liberal paradigm. *Security Dialogue*, 41(5), 537-558.
- Anker, E. (2007). Discourse. In M. Bevir (Ed), *Encyclopaedia of Governance* (pp. 231-232). Thousand Oaks, USA: SAGE Publications Inc.
- Aqorau, T. (2008). Crisis in Solomon Islands: foraging for new directions. In S. Dinnen & S. Firth (Eds.), *Politics and State building in Solomon Islands* (pp. 246-269). Canberra, Australia: ANU E Press & Asia Pacific Press.
- Arenhövel, M. (2008). Democratization and transitional justice. *Democratization*, 15(3), 570-587.
- Ash, P. (2007). *Address to Rotary Club Honiara*. Retrieved from: <http://www.ramsi.org/Media/docs/070313-Deputy-Special-Coordinator-Paul-Ash---Address-to-Rotary-Honiara-2265a572-63c2-430c-aedb-8edcbf90c9fb-o.pdf>

- Attree, L. (2013). An integrated vision for peace and development? Building on the High Level Panel's report. *Journal of Peacebuilding & Development*, 8(2), 123-127.
- AusAID. (2012). *Solomon Islands Case Study: Evaluation of Australian Law and Justice Assistance*. Retrieved from: <http://www.ode.ausaid.gov.au/publications/documents/lawjustice-solomon-islands-case-study.pdf>
- Ayoob, M. (2002). Humanitarian intervention and state sovereignty. *The International Journal of Human Rights*, 6(1), 81-102.
- Banks, M. (1987). Four conceptions of peace. In D.J.D. Sandole & I. Sandole-Staroste (Eds.), *Conflict Management and Problem solving: Interpersonal to International Applications* (pp. 259-274). London, UK: F. Pinter.
- Batley, J. (2005). *Address to Solomon Islands Chamber of Commerce and Industry*. Retrieved from: <http://www.ramsi.org/media/speeches.html>
- Belloni, R. (2012). Hybrid peace governance: its emergence and significance. *Global Governance*, 18(1), 21-38.
- Bendaña, A., & Chopra, T. (2013). Women's rights, state-centric rule of law, and legal pluralism in Somaliland. *Hague Journal on the Rule of Law*, 5(1), 44-73.
- Bennett, J.A. (1987). *Wealth of the Solomons: A History of a Pacific Archipelago, 1800-1978*. Honolulu, USA: University of Hawaii Press.
- Berg, L.A. (2012). Guns, laws and politics: the political foundations of rule of law and security sector reform. *Hague Journal on the Rule of Law*, 4(special issue 1), 4-30.
- Beswick, D. (2009). The challenge of warlordism to post-conflict state-building: the case of Laurent Nkunda in Eastern Congo. *The Round Table: the Commonwealth Journal of International Affairs*, 98(402), 333-346.
- Boege, V., Brown, M., & Clements, K. (2009). Hybrid political orders, not fragile states. *Peace Review*, 21(1), 13-21.
- Braithwaite, J. (2002). Setting standards for restorative justice. *The British Journal of Criminology*, 42(3), 563-577.
- Braithwaite, J., Dinnen, S., Allen, M., Braithwaite, V., & Charlesworth, H. (2010). *Pillars and Shadows: Statebuilding as Peacebuilding in Solomon Islands*. The Australian National University. Retrieved from:

- http://epress.anu.edu.au/titles/peacebuilding-compared/pillars_shadows_citation/pdf-download
- Brewer, J. (2003). Content analysis. In R.L. Miller, & J.D. Brewer (Eds.), *The A-Z of Social Research* (pp. 44-46). SAGE Publications, LTD. Retrieved from: <http://srmo.sagepub.com/view/the-a-z-of-social-research/n17.xml>
- Brigg, M. (2009). Wantokism and state building in Solomon Islands: a response to Fukuyama. *Pacific Economic Bulletin*, 24(3), 148-161.
- Brooks, R.E. (2003). The new imperialism: violence, norms, and the “rule of law”. *Michigan Law Review*, 101(7), 2275-2340.
- Brydon, L. (2006). Ethical practices in doing development research. In V. Desai & R.B. Potter (Eds.), *Doing Development Research* (pp. 25-34). London, UK: SAGE Publications Ltd.
- Buchanan, A. (2012, May 23). Tension cases unlikely to be completed next year. *Solomon Star*. Retrieved from: <http://www.solomonstarnews.com/news/national/14753-tension-cases-unlikely-to-be-completed-next-year>
- Campbell, I.C. (2007). To not reinstate the past. *The Journal of Pacific History*, 42(1), 55-72.
- Cao, L. (2007). Can might make rights? Building the rule of law after military interventions by Jane Stromseth; David Wippman; Rosa Brooks. Review by: Lan Cao. *The American Journal of International Law*, 101(4), 901-907.
- Celador, G.C. (2005). Police reform: peacebuilding through ‘democratic policing’? *International Peacekeeping*, 12(3), 364-376.
- Chandler, D. (2006). *Empire in Denial: The Politics of State-building*. London, UK: Pluto Press.
- Chandler, D. (2007). EU statebuilding: securing the liberal peace through EU enlargement. *Global Society*, 21(4), 593-607.
- Chapman, B. (2000). Chance, reason, and the rule of law. *The University of Toronto Law Journal*, 50(4), 469-492.
- Chopra, J. (2002). Building state failure in East Timor. *Development and Change*, 33(5), 979-1000.
- Clark, H. (2012). *Helen Clark: High Level Meeting on Rule of law, 67th Session of the UN General Assembly 2012*. Retrieved from:

- <http://www.undp.org/content/undp/en/home/presscenter/speeches/2012/09/24/helen-clark-67th-session-of-the-un-general-assembly/>
- Clements, K.P., Boega, V., Brown, A., Foley, W., & Nolan, N. (2007) State building reconsidered: the role of hybridity in the formation of political order. *Political Science*, 59(45), 45-56.
- Collier, P. (2007). *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About it*. New York, USA: Oxford University Press.
- Cooper, D. (1993). Rhetoric, literature and philosophy. In R. Roberts & J. Goods (Eds.), *The Recovery of Rhetoric: Persuasive Discourse and Disciplinarity in the Human Sciences* (pp. 193-202). Bristol, UK: Classical.
- Cope, M. (2005). Coding qualitative data. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed., pp. 223-233). Melbourne, Australia: Oxford University Press.
- Coppel, N. (2011a). *Opening of Lata Police Housing*. Retrieved from: <http://www.ramsi.org/Media/docs/110526-SC-Nicholas-Coppel---Lata-Police-Housing-opening-2-69abc12c-9684-40a6-b3bc-707714418359-o.pdf>
- Coppel, N. (2011b). *Address to the Third Australian Solomon Islands Business Forum Brisbane, Australia*. Retrieved from: <http://www.ramsi.org/Media/docs/111021-Nicholas-Coppel---ASIBF-RAMSI-and-the-relationship-between-security-and-economic-prosperity-Final-speech-12baf3fa-c164-4aad-b453-150338f26e08-o.pdf>
- Coppel, N. (2011c). *Building the Capacity to Protect Workshop*. Retrieved from: <http://www.ramsi.org/Media/docs/110622-Building-the-Capacity-to-Protect-4954e930-eodf-4368-b312-d4ad87b68178-o.pdf>
- Coppel, N. (2012). *Transition of the Regional Assistance Mission to Solomon Islands*. Canberra, Australia: Australian National University. Retrieved from: http://ips.cap.anu.edu.au/sites/default/files/2012_10.pdf
- Cotton, J. (2001). Against the grain: the East Timor intervention. *Survival*, 43(1), 127-142.
- Cox, M., Duituturaga, E., & Scheye, E. (2012). *Building on Local Strengths: Evaluation of Australian law and justice assistance*. AusAID ODE Evaluations and Reviews. Retrieved from:

- <http://www.ode.ausaid.gov.au/publications/evaluation-law-and-justice.html>
- Crawford, N. (1993). Decolonization as an international norm: the evolution of practices, argument, and beliefs. In L.W. Reed & C. Kaysen (Eds.), *Emerging Norms of Justified Intervention* (pp. 37-61). Cambridge, USA: American Academy of Arts and Sciences.
- Delfau, K., & Duff, N. (2011). *Restorative Justice: A Primer*. Retrieved from: <http://synexe.com/assets/Uploads/201108+Restorative+Justice+Primer.pdf>
- Denzin, N.K., Lincoln, Y.S., & Smith, L.T. (2008). *Handbook of Critical and Indigenous Methodologies*, Los Angeles, USA: SAGE Publications Ltd.
- Dinnen, S. (2008). State-building in a post-colonial society: the case of Solomon Islands. *Chicago Journal of International Law*, 9(1), 51-78.
- Dinnen, S. (2009). The crisis of state in Solomon Islands. *Peace Review: A Journal of Social Justice*, 21(1), 70-78.
- Dinnen, S., & Haley, N. (2012). *Evaluation of the Community Officer Project in Solomon Islands*. Washington DC, USA: The World Bank. Retrieved from: http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/05/11/000386194_20120511024415/Rendered/PDF/687150WPotfo970jectEvaluationoFinal.pdf
- Dowding, K. (2006). Three-dimensional power: a discussion of Steven Lukes' Power: A Radical View. *Political Studies Review*, 4(2), 136-145.
- Dunn, K. (2005). Interviewing. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed., pp. 79-105). South Melbourne, Australia: Oxford University Press.
- EPLO. (2011). *Linking Peacebuilding and Development*. Retrieved from: http://www.eplo.org/assets/files/2.%20Activities/Working%20Groups/PEDS/EPLO_Statement_Linking_Peacebuilding_and_Development.pdf
- Evans, D., Goddard, M., & Paterson, D. (2010). *The Hybrid Courts of Melanesia: A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands*. Washington DC, USA: World Bank. Retrieved from: <http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/HybridCourts.pdf>

- Fairclough, N. (2001). *Language and Power* (2nd ed.). Harlow, UK: Longman.
- Faundez, J., & Janse, R. (2012). Rule of law promotion and security sector reform: partners or rivals? *Hague Journal on the Rule of Law*, 4(special issue 1), 1-3.
- Ferrari, V. (2007). Content analysis. In D.S. Clark (Ed.), *Encyclopaedia of Law and Society: American and Global Perspectives* (pp. 289-290). Thousand Oaks, USA: SAGE Publications Ltd.
- Foucault, M. (2007). 1 February 1978. In M. Senellart (Ed.), *Michel Foucault Security, Territory, Population: Lectures at the College de France 1977-78* (pp. 87-115). New York, USA: Palgrave MacMillan.
- Fox, J.E., & Miller-Idriss, C. (2008). Everyday nationhood. *Ethnicities*, 8(4), 536-563.
- Fraenkel, J. (2004). *The Manipulation of Custom: From Uprising to Intervention in the Solomon Islands*. Wellington, New Zealand: Victoria University Press.
- Fukuyama, F. (2007). Liberalism versus state-building. *Journal of Democracy*, 18(3), 10-13.
- Fukuyama, F. (2008). 'State building in Solomon Islands'. *Pacific Economic Bulletin*, 23(3), 1-17.
- Fullilove, M. (2006). RAMSI and state building in Solomon Islands. *The Defender, Autumn*, 31-35.
- Galatzer-Levy, R.M. (2002). Emergence. *Psychoanalytic Inquiry: A Topical Journal for Mental Health Professionals*, 22(5), 708-727.
- Gaventa, J. (2006). Finding the spaces for change: a power analysis. *IDS Bulletin*, 37(6), 23-33.
- George, T. (2007). 'Combating Corruption and Rebuilding a Nation': *Transparency International Address*. Retrieved from: <http://www.ramsi.org/Media/docs/070328-Special-Coordinator-Tim-George---Transparency-International-address---Combating-corruption-and-rebuilding-a-nation-875adb47-7f90-4a67-b24e-54bca07262c4-o.pdf>
- George, T. (2008). *Submission by Regional Assistance Mission to Solomon Islands Special Coordinator Tim George: Review of RAMSI Foreign Relations Committee, National Parliament of Solomon Islands September 2008*. Retrieved from:

- <http://www.parliament.gov.sb/files/committees/foreignrelations/submissions/RAMSI-Sub.pdf>
- Ghani, A., Lockhart, C., & Carnahan, M. (2005). *Working Paper 253. Closing the Sovereignty Gap: An Approach to State-Building*. Retrieved from: <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2482.pdf>
- Gilman, S.C. (2005). *Ethics Cases and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons*. Washington, DC, USA: World Bank. Retrieved from: <http://www.oecd.org/mena/governance/35521418.pdf>
- Goldsmith, A. (2002). Policing weak states: citizen safety and state responsibility. *Policing and Society: An International Journal of Research and Policy*, 13(1), 3-21.
- Goldsmith, A., & Sinclair, D. (2007). Transnational police building: critical lessons from Timor-Leste and Solomon Islands. *Third World Quarterly*, 28(6), 1091-1109.
- Goulet, D. (1997). Development ethics: a new discipline. *International Journal of Social Economics*, 24(11), 1160-1171.
- Gee, G., & Webber, G. (2013). Rationalism in public law. *The Modern Law Review*, 76(4), 708-734.
- Hameiri, S. (2007). The trouble with RAMSI: reexamining the roots of conflict in Solomon Islands. *The Contemporary Pacific*, 19(2), 409-552.
- Hameiri, S. (2012). Mitigating the risk to primitive accumulation: state-building and the logging boom in Solomon Islands. *Journal of Contemporary Asia*, 42(3), 405-426.
- Harvey, L., MacDonanld, M., Holsti, O., Abercrombie, N., Crewe, I., Giddens, A., Jagger, E., & Payne, G. (2004). Content analysis. In G. Payne, & J. Payne (Eds.), *Key Concepts in Social Research* (pp. 51-56). SAGE Publications Ltd. Retrieved from: <http://srmo.sagepub.com/view/key-concepts-in-social-research/SAGE.xml>
- Heathershaw, J. (2008). Unpacking the liberal peace: the dividing and merging of peacebuilding discourses. *Millennium – Journal of International Studies*, 36(3), 597-621.

- Helton, A.C. (2000). Forced displacement, humanitarian intervention, and sovereignty. *SAIS Review*, 20(1), 61-86.
- Heupel, M. (2012). Rule of law promotion and security sector reform: common principles, common challenges. *Hague Journal on the Rule of Law*, 4(special issue 1), 158-175.
- Hill, R., Temin, J., & Pacholek, L. (2007). Building security where there is no security. *Journal of Peacebuilding & Development*, 3(2), 38-52.
- Hjerm, M., & Schnabel, A. (2010). Mobilizing nationalist sentiments: which factors affect nationalist sentiments in Europe? *Social Science Research*, 39(4), 527-539.
- Hough, M., Jackson, J., Bradford, B., Myhill, A., & Quinton, P. (2010). Procedural justice, trust, and institutional legitimacy. *Policing: A Journal of Policy and Practice*, 4(3), 203-210.
- Howard, J. (2003). *Howard Justifies Regional Assistance Mission to the Solomon Islands*. Retrieved from:
<http://australianpolitics.com/news/2003/08/03-08-12.shtml>
- International Dialogue on Peacebuilding and Statebuilding. (2011). *A New Deal for Engagement in Fragile States*. Retrieved from:
<http://www.pbsbdialogue.org/documentupload/49151944.pdf>
- International Dialogue on Peacebuilding and Statebuilding. (2013). *About the International Dialogue*. Retrieved from:
<http://www.pbsbdialogue.org/about/>
- Jeffrey, A. (2008). Contesting Europe: the politics of Bosnian integration into European structures. *Environment and Planning D: Society and Space*, 26(3), 428-443.
- Jeffrey, A. (2011). The political geographies of transitional justice. *Transactions of the Institute of British Geographers*, 36(3), 344-359.
- Jeffery, R. (2013). Enduring tensions: transitional justice in the Solomon Islands. *The Pacific Review*, 26(2), 1-23.
- Jessop, B. (2007). From micro-powers to governmentality: Foucault's work on statehood, state formation, statecraft and state power. *Political Geography*, 26(1), 34-40.
- Kabutaulaka, T.T. (2004). "Failed State" and the war on terror: intervention in Solomon Islands. *Asia Pacific Press*, 21(1), 70-78.

- Kabutaulaka, T.T. (2005). Australian foreign policy and the RAMSI intervention in Solomon Islands. *The Contemporary Pacific*, 17(2), 283-308.
- Kitchin, R., & Tate, N.J. (2000). *Conducting Research in Human Geography: Theory, Methodology and Practice*. Harlow, UK: Pearson Education Limited.
- Krasner, S.D. (1999). *Sovereignty: Organized Hypocrisy*. New Jersey, USA: Princeton University Press.
- Laclau, E., & Mouffe, C. (2001). *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (2nd ed.). New York, USA: Verso.
- Langford, T. (1999). Things fall apart: state failure and the politics of intervention. *International Studies Review*, 1(1), 59-79.
- Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: a meta-analysis. *The Prison Journal*, 85(2), 127-144.
- Leest, K.V.D., Kolarova, D., & Mécréant, L. (2010). *A Guidance for Integrating Peacebuilding into Development*. PDCI & Initiative for Peacebuilding. Retrieved from:
<http://www.initiativeforpeacebuilding.eu/pdf/1102PeaceDevelopment.pdf>
- Liloqula, R., & Pollard, A.A. (2000). *Understanding Conflict in Solomon Islands: A Practical Means to Peacemaking*. Canberra, Australia: The Australian National University. Retrieved from:
http://ips.cap.anu.edu.au/ssgm/papers/discussion_papers/understanding_conflict.pdf
- Longo, F. (2013). The relevance of security sector reform in humanitarian intervention: the case of the European Union in the Mediterranean. *Democracy and Security*, 9(1-2), 177-192.
- Luddington, D.C.C. (1974). *First Impressions of the British Solomon Islands Protectorate*. Foreign and Commonwealth Office.
- Lukes, S. (2005). *Power: A Radical View* (2nd ed.). New York, USA: Palgrave Macmillan.
- Lundy, P., & McGovern, M. (2008). Whose justice? Rethinking transitional justice from the bottom up. *Journal of Law and Society*, 35(2), 265-292.
- Manjikian, M. (2013). Positivism, post-positivism, and intelligence analysis. *International Journal of Intelligence and Counter Intelligence*, 26(3), 563-582.

- Mansvelt, J., & Berg, L.D. (2005). Writing qualitative geographies, constructing geographical knowledges. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed., pp. 248-265). Melbourne, Australia: Oxford University Press.
- Mason, J. (2004). Semistructured Interview. In M.S. Lewis-Black, A. Bryman & T.F. Liao (Eds.), *Encyclopaedia of Social Science Research Methods* (pp. 1021-1022). London, UK: Sage Publications Inc.
DOI:10.4135/9781412950589
- McKinlay, A., Carter, C., & Pezet, E. (2013). Governmentality, power and organization. *Management & Organizational History*, 7(1), 3-15.
- Meagher, K. (2012). The strength of weak states? Non-state security forces and hybrid governance in Africa. *Development and Change*, 43(5), 1073-1101.
- Mendonça, H.F., & Fonseca, A.O. (2012). Corruption, income, and rule of law: empirical evidence from developing and developed economies. *Brazilian Journal of Political Economy*, 32(1), 305 -314.
- Merriam-Webster. (2013). *Belief*. Retrieved from: <http://www.merriam-webster.com/dictionary/belief>
- Momsen, J.H. (2006). Doing discourse analysis. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed., pp. 44-52). South Melbourne, Australia: Oxford University Press.
- Moore, C. (2004). *Happy Isles in Crisis: The Historical Causes for a Failing State in Solomon Islands, 1998-2004*. Canberra, Australia: Asia Pacific Press.
- Morgan, M.G., & McLeod, A. (2006). Have we failed our neighbour? *Australian Journal of International Affairs*, 60(3), 412-428.
- Morriss, P. (2006). Steven Lukes on the concept of power. *Political Studies Review*, 4(2), 124-235.
- Nagan, W.P., & Jacobs, G. (2012). New paradigm for global rule of law. *CADMUS*, 1(4), 130-146.
- Nanau, G.L. (2008). Intervention and nation-building in Solomon Islands: local responses. In G. Fry & T.T. Kabutaulaka (Eds.), *Intervention and State-Building in the Pacific: The Legitimacy of 'Cooperative Intervention'* (pp. 149-163). Manchester, UK: Manchester University Press.

- New Deal. (2013). *From Paris to Busan: How Did We Get Here?* Retrieved from: <http://www.newdeal4peace.org/road-map/>
- Nori v. Attorney General [2006]. SBHC 134; HCSI CC 172 of 2005. Retrieved from: <http://www.paclii.org/sb/cases/SBHC/2006/134.html>
- O'Connor, P. (2007). *The Howard Government, RAMSI, and the April 2006 Solomon Islands' Riots*. Retrieved from: <https://www.wsws.org/en/articles/2007/02/solo-f21.html>
- OECD. (2007). *OECD-DAC Handbook on Security System Reform: Supporting Security and Justice*. OECD Publishing. Retrieved from: <http://www.oecd.org/development/incaf/38406485.pdf>
- OECD. (2010). *The State's Legitimacy in Fragile Situations: Unpacking Complexity*. OECD Publishing. Retrieved from: <http://www.oecd.org/dac/incaf/44794487.pdf>
- OECD. (2011). *Supporting Statebuilding in Situations of Conflict and Fragility: Policy Guidance*. OECD Publishing. Retrieved from: <http://www.oecd-ilibrary.org/docserver/download/4311031e.pdf?expires=1385521133&id=id&accname=guest&checksum=65C2D2595E4F6B9B3E91F4839846918A>
- Pacific Islands Forum Secretariat. (2004). *Social Impact Assessment of Peace Restoration Initiatives in Solomon Islands*. Retrieved from: <http://www.forumsec.org.fj/resources/uploads/attachments/documents/Social%20Impact%20of%20Peace%20Restoration%20Initiatives%20in%20Solomon%20Islands%202004.pdf>
- Paris, R. (2004). *At War's End: Building Peace after Civil Conflict*. New York, USA: Cambridge University Press.
- Paris, R. (2010). Saving liberal peacebuilding. *Review of International Studies*, 36(2), 337-365.
- Peake, G., & Brown, K.S. (2005). Policebuilding: the international deployment group in the Solomon Islands. *International Peacekeeping*, 12(4), 520-532.
- Pistor, K., Haldar, A., & Amirapu, A. (2010). Social norms, rule of law, and gender reality: an essay on the limits of the dominant rule-of-law paradigm. In J.J. Heckman, R.L. Nelson, & L. Cabatingan (Eds.), *Global Perspectives on the Rule of Law* (pp. 241-278). Oxon, UK: Routledge.

- Prado, M., & Trebilcock, M. (2009). Path-dependence, development, and the dynamics of institutional reform. *The University of Toronto Law Journal*, 59(3), 341-379
- QSR International. (2013). *An Overview of Nvivo: Software to Support Qualitative and Mixed Methods Research*. Retrieved from: <http://download.qsrinternational.com/Resource/NVivo10/nvivo10-overview.pdf>
- Quigley, F. (2009). Growing political will from the grassroots: how social movement principles can reverse the dismal legacy of rule of law interventions. *Columbia Human Rights Law Review*, 41(1), 13-54.
- Radio New Zealand. (2013, July 10). *TI Says Corruption in Solomons now Systemic* [News content]. Retrieved from: <http://www.rnzi.com/pages/news.php?op=read&id=77468>
- RAMSI. (2006). *Annual Performance Report 2005/2006*. Retrieved from: <http://www.ramsi.org/Media/docs/RAMSI-Annual-Performance-Report-2005-06-bf45bd8b-6894-4a71-912d-90260938a4b0-o.pdf>
- RAMSI. (2007). *Annual Performance Report 2006/2007*. Retrieved from: <http://www.ramsi.org/Media/docs/RAMSI-Annual-Performance-Report-2006-07-589ba37c-cod1-455a-b30e-880828705634-o.pdf>
- RAMSI. (2008). *Annual Performance Report 2007/2008*. Retrieved from: <http://www.ramsi.org/Media/docs/RAMSI-Annual-Performance-Report-2007-08-e31d35f8-67e2-483c-b88d-aa8801cd1193-o.pdf>
- RAMSI. (2010a). *Annual Performance Report 2009*. Retrieved from: <http://www.ramsi.org/Media/docs/RAMSI-Annual-Performance-Report-2009-c93293d3-a6e8-4de7-81fc-e97c13adda0e-o.pdf>
- RAMSI. (2010b). *Letter from RAMSI: Building Bridges Between People and Police*. Retrieved from: <http://www.ramsi.org/Media/docs/Ramsi-IB-Novemeber-2010-e5e3ec73-a565-40b6-b4b2-23c867174352-o.pdf>
- RAMSI. (2011a). *People's Survey 2011*. Retrieved from: <http://www.ramsi.org/Media/docs/-Peoples-Survey-2011-FULL-REPORT-WEB-c7ead65c-d16d-4c2a-8c24-9bc8ef741bd8-o.pdf>
- RAMSI. (2011b). *Annual Performance Report 2011*. Retrieved from: <http://www.ramsi.org/Media/docs/RAMSI-Annual-Performance-Report-2010-c96ded4d-dfb3-47c9-a7dd-d48e0109f051-o.pdf>

- RAMSI. (2011c). *Letters from RAMSI: Gizo Community Leaders Tok Tok with RAMSI*. Retrieved from: <http://www.ramsi.org/Media/docs/Ramsi-IB-January-2011-f417ebea-138b-4a66-968b-146ed4468e67-o.pdf>
- RAMSI. (2012a). *Report to the Pacific Islands Forum on RAMSI 2012*. Retrieved from: <http://www.ramsi.org/Media/docs/2012-Report-on-RAMSI-activities-FINAL-6dd01a24-c381-4050-b944-ab373864109e-o.pdf>
- RAMSI. (2013a). *Rebuilding a Nation: Ten years of the Solomon Islands – RAMSI Partnership*. Retrieved from: <http://www.ramsi.org/Media/docs/Rebuilding-a-Nation-RAMSI-EBook-185ca1c0-4b11-4ea0-86ac-eb0110e15b66-o.pdf>
- RAMSI. (2013b). *People's Survey 2013*. Retrieved from: <http://www.ramsi.org/Media/docs/FINAL-Peoples-Survey-2013-1-final-111900c1-79e2-4f41-9801-7f29f6cd2a66-o.pdf>
- RAMSI. (n.d.a). *Developing the Capacity of the Royal Solomon Islands Police Force*. Retrieved from: <http://www.ramsi.org/our-work/developing-the-capacity-of-the-rsipf.html>
- RAMSI. (n.d.b). *Law and Justice*. Retrieved from: <http://www.ramsi.org/our-work/law-and-justice.html>
- RAMSI. (n.d.c) *Public Service Improvement*. Retrieved from: <http://www.ramsi.org/our-work/machinery-of-government/public-service-improvement.html>
- RAMSI. (n.d.d). *Accountability*. Retrieved from: <http://www.ramsi.org/our-work/machinery-of-government/accountabililty.html>
- Rapley, T. (2007). *Doing Conversation, Discourse and Document Analysis*. London, UK: SAGE Publications Ltd. DOI: 10.4135/9781849208901
- Richmond, O.P., & Franks, J. (2008). Liberal peacebuilding in Timor Leste: the emperor's new clothes? *International Peacekeeping*, 15(2), 185-200.
- Richmond, O.P. (2009). A post-liberal peace: eirenism and the everyday. *Review of International Studies*, 35(3), 557-580.
- Richmond, O.P. (2011). De-romanticising the local, de-mystifying the international: hybridity in Timor-Leste and the Solomon Islands. *The Pacific Review*, 24(1), 115-136.
- Richmond, O., Björkdahl, A., & Kappler, S. (2011). The emerging EU peacebuilding framework: conforming or transcending liberal

- peacebuilding? *Cambridge Review of International Affairs*, 24(3), 449-469.
- Ride, A. (2010). Country profile: Solomon Islands. *New Internationalist*, 450, 36.
- Roberts, D. (2008). Post-conflict statebuilding and state legitimacy: from negative to positive peace? *Development and Change*, 39(4), 537-555.
- Rose, G. (2007). *Visual methodologies: An Introduction to the Interpretation of Visual materials* (2nd ed.). London, UK: SAGE Publications Ltd.
- Rose, D. (2008). Postmodern political values: pluralism and legitimacy in the thought of John Rawls and Gianni Vattimo. *Contemporary Political Theory*, 7(4), 416-433.
- Rossier, M.K. (2011). *A Review of Practices and Expert Opinions: Linking Humanitarian Action and Peacebuilding*. Geneva, Switzerland: The Graduate Institute. Retrieved from:
http://graduateinstitute.ch/files/live/sites/iheid/files/sites/ccdp/shared/6305/WP7_WEB-1.pdf
- Rotberg, R.I. (2004). The failure and collapse of nation-states: breakdown, prevention, and repair. In R.I. Rotberg (Ed.), *When States Fail: Causes and Consequences* (pp. 1-51). Princeton, USA: Princeton University Press.
- Roulston, K. (2010). Considering quality in qualitative interviewing. *Qualitative Research*, 10(2), 199-228.
- Rubin, B.R. (2006). Constructing sovereignty for security. *Survival: Global Politics and Strategy*, 47(4), 93-106.
- Sage. (n.d.). *Data Collection Strategies*. London, UK: Sage Publications Inc. Retrieved from:
http://www.sagepub.com/bjohnsonstudy/bonus_materials/additional_tables/StrengthsandWeaknessesofDataCollectionMethods.pdf
- Scaglion, R. (1990). Legal adaption in a Papua New Guinea village court. *Ethnology*, 29(1), 17-33.
- Schröder, U.C., & Kode, J. (2012). International state building: dilemmas of converging agendas. *Hague Journal on the Rule of Law*, 4(special issue 1), 31-53.
- Schwandt, T.A. (2007). *The SAGE Dictionary of Qualitative Inquiry*. London, UK: Sage Publications Inc. DOI: 10.4135/9781412986281

- Schwarz, B. (2005). Post-conflict peacebuilding: the challenges of security, welfare and representation. *Security Dialogue*, 36(4), 429-446.
- Simonsen, S.G. (2009). The role of East Timor's security institutions in national integration – and disintegration. *The Pacific Review*, 22(5), 575-596.
- Smoljan, J. (2003). The relationship between peace building and developing. *Conflict, Security & Development*, 3(2), 233-250.
- Sogavare, M. (2008). *Submission to the Foreign Relations Committee on the Review of "The Regional Assistance Mission to Solomon Islands [RAMSI] Notice [2003]*. Retrieved from:
<http://www.parliament.gov.sb/files/committees/foreignrelations/Submissions/oppleader.PDF>
- Solomon Islands Government. (2003a). *Policy Statement on the Offer by the Australian Government for Strengthening Assistance to Solomon Islands*. National Parliament of Solomon Islands, Honiara: Solomon Islands.
- Solomon Islands Government. The Facilitation of International Assistance Act, No.1. (2003b). Retrieved from:
http://www.paclii.org/sb/legis/num_act/foiaa2003386/
- Solomon Islands Government. (2009a). *2009 Population & Housing Census National Report: Volume Two*. Retrieved from:
<http://www.spc.int/prism/solomons/index.php/sinso-documents?view=download&fileId=59>
- Solomon Islands Government. (2009b). *Committee Report: Report on the Inquiry into the Facilitation of International Assistance Notice 2003 and RAMSI Intervention*. National Parliament of Solomon Islands, Honiara: Solomon Islands.
- Solomon Islands Government. (2009c). *Partnership Framework Between Solomon Islands Government and Regional Assistance Mission to Solomon Islands*. Retrieved from:
http://www.ramsi.org/Media/docs/SIG-RAMSI_PartnershipFramework-f69fa231-cc6a-47bf-99a3-3e88eba95414-o.pdf
- Stanley, E. (2007). Transitional crime and state-building: the case of Timor-Leste. *Social Justice*, 34(2), 124-137.

- Stromseth, J., Wippman, D., & Brooks, R. (2006). *Can Might Make Right? Building the Rule of Law After Military Interventions*. New York, USA: Cambridge University Press.
- Sutherland, C. (2005). Nation-building through discourse theory. *Nations and Nationalism*, 11(2), 185-202.
- Swartz, D.L. (2007). Recasting power in its third dimension. *Theory and Society*, 36(1), 103-109.
- Talentino, A.K. (2007). Perceptions of peacebuilding: the dynamic of imposer and imposed upon. *International Studies Perspectives*, 8(2), 152-171.
- The International Commission on Intervention and State Sovereignty. (2001). *The Responsibility to Protect*. Ottawa, Canada: The International Development Research Centre. Retrieved from:
<http://responsibilitytoprotect.org/ICISS%20Report.pdf>
- The Truth and Reconciliation Commission. (2012). *Final Report*. Retrieved from:
<http://pacificpolitics.com/files/2013/04/Solomon-Islands-TRC-Final-Report-Vol1.pdf>
- Tilly, C. (1985). War making and state making as organized crime. In P. Evans, D. Rueschemeyer, & T. Skocpol (Eds.), *Bringing the State Back In* (pp. 169-186). Cambridge, UK: Cambridge University Press.
- Tyler, T.R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and Justice*, 30, 283-357.
- United Nations. (1945). *The Charter of the United Nations: Chapter XII: International Trusteeship System*. Retrieved from:
<http://www.un.org/en/documents/charter/chapter12.shtml>
- United Nations. (2008). *United Nations Declaration on the Rights of Indigenous Peoples*. Retrieved from:
http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- United Nations. (2013). *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development: The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda*. New York, USA: United Nations Publications. Retrieved from:
<http://www.post2015hlp.org/wp-content/uploads/2013/05/UN-Report.pdf>

- United Nations Secretary General. (2004). *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*. Retrieved from: <http://www.unrol.org/files/2004%20report.pdf>.
- Vidiani. (2013). *Large detailed map of Solomon Islands with all Cities and Airports*. Retrieved from: <http://www.vidiani.com/?p=13972>
- Vieira, L. (2006). *The CAVR and the 2006 Displacement Crisis in Timor-Leste*. Retrieved from: <http://ictj.org/sites/default/files/ICTJ-Brookings-Displacement-Truth-Telling-Timor-Leste-CaseStudy-2012-English.pdf>
- Wainwright, E. (2003). Responding to state failure - the case of Australia and Solomon Islands. *Australian Journal of International Affairs*, 57(3), 485-498.
- Waite, G. (2005). Doing discourse analysis. In I. Hay (Ed.), *Qualitative Research Methods in Human Geography* (2nd ed., pp.163-191). South Melbourne, Australia: Oxford University Press.
- Wallis, J. (2012). A liberal-local hybrid peace project in action? The increasing engagement between the local and liberal in Timor-Leste. *Review of International Studies*, 38(4), 1-27.
- Warner, N. (2003a). *RAMSI's Arrival: Message to the People of Solomon Islands*. Retrieved from: <http://www.ramsi.org/Media/docs/031031-Special-Coordinator-Nick-Warner---100-days-of-RAMSI-9cd1906a-907f-40da-aaba-ob96082a2eao-o.pdf>
- Warner, N. (2003b). *'100 Days of RAMSI': Message to the People of Solomon Islands*. Retrieved from: <http://www.ramsi.org/Media/docs/031031-Special-Coordinator-Nick-Warner---100-days-of-RAMSI-9cd1906a-907f-40da-aaba-ob96082a2eao-o.pdf>
- Warner, N. (2004b). *'Moving Forward in Partnership: RAMSI, One Year On'*. Retrieved from: <http://www.ramsi.org/Media/docs/040615-Special-Coordinator-Nick-Warner---Moving-Forward-in-Partnership-Beyond-Intervention-Conference-27229853-a9b0-4986-8d5b-c6c5a15259f3-o.pdf>
- Warner, N. (2004a). *'Operation Helpem Fren: Rebuilding the Nation of Solomon Islands'*. Retrieved from: <http://www.ramsi.org/Media/docs/040323-Special-Coordinator-Nick-Warner---Operation-Helpem-Fren-Nation-Security-Conference-34a32cdd-cdec-47a8-be7b-5ff3f622547b-o.pdf>

- Warner, N. (2004c). *RAMSI's 1st Anniversary*. Retrieved from:
<http://www.ramsi.org/Media/docs/040724-Special-Coordinator-Nick-Warner---RAMSI-1st-Anniversary-0e409a57-ae63-44a5-8e64-a5e7d81496c8-o.pdf>
- Weingast, B.R. (2010). Why developing countries prove so resistant to the rule of law. In J.J. Heckman, R.L. Nelson, & L. Cabatingan (Eds.), *Global Perspectives on the Rule of Law* (pp. 28-51). Oxon, UK: Routledge.
- Wenzel, M., Okimoto, T.G., Feather, N.T., & Platow, M.J. (2008). Retributive and restorative justice. *Law and Human Behaviour*, 32(5), 375-389.
- Westermarck, G.D. (1991). Controlling custom: ideology and pluralism in the Papua New Guinea village courts. *The Legal Studies Forum*, 15(2), 89-102.
- Wheeler, N.J. (2002). *Saving Strangers: Humanitarian Intervention in International Society*. Oxford, UK: Oxford University Press.
- Wielders, I. (2003). *Conflict Resolution and Governance in Solomon Islands*. Canberra, Australia: The Australian National University. Retrieved from:
http://ips.cap.anu.edu.au/ssgm/papers/conference_papers/2003/6Wielders_revised.pdf
- Wielders, I. (2008). The Regional Assistance Mission to Solomon Islands in global perspective. In G. Fry & T.T. Kabutaulaka (Eds.), *Intervention and State-Building in the Pacific: The Legitimacy of 'Cooperative Intervention'* (pp. 135-149). Manchester, UK: Manchester University Press.
- Willis, J.W. (2007). *Foundations of Qualitative Research: Interpretive and Critical Approaches*. London, UK: Sage Publications Inc. DOI: 10.4135/9781452230108
- Willis, K. (2006). Interviewing. In V. Desai & R.B. Potter (Eds.), *Doing Development Research* (pp. 144-153). London, UK: SAGE Publications Ltd.
- Wilson, G. (2009). *RAMSI's 6th Anniversary*. Retrieved from:
<http://www.ramsi.org/Media/docs/090720-Special-Coordinator-Graeme-Wilson---RAMSI-6th-anniversary-808b4b70-1cfe-4439-aafb-dafdo912bbaf-o.pdf>
- Wilson, G. (2010). *Address to Mark International Anti-Corruption Day*. Retrieved from: <http://www.ramsi.org/Media/docs/101209-Special->

Coordinator-Graeme-Wilson---International-Anti-Corruption-Day-
address-54a047co-85de-4b3e-8obd-32487674efe1-o.pdf

Wiltshier, F. (2011). Researching with NVivo. *Qualitative Social Research*, 12(1), n.p.

Wippman, D. (2010). Building the rule of law in Kosovo. *Proceedings of the Annual Meeting (American Society of International Law)*, 104, (March 24-27), 366-369.

World Bank. (2008). *Building Post-Crisis Capacity: Cases from the Solomon Islands Office of the Auditor General: Building a National Audit Office*.

Retrieved from:

http://www.wds.worldbank.org/external/default/WDSCContentServer/WDSP/IB/2012/05/16/000356161_20120516013648/Rendered/PDF/687270WPoP11400alocaseoSolsoOct2008.pdf

World Bank. (2013). *Pursuing Justice in Rural Solomon Islands*. Retrieved from: <http://www.worldbank.org/en/news/feature/2013/10/18/pursuing-justice-in-rural-solomon-islands>

Yin, R.K. (2003). *Case study research: Design and methods* (2nd ed.). London, UK: SAGE Publications Ltd.

Zaum, D. (2009). The norms and politics of exit: ending postconflict transitional administrations. *Ethics and International Affairs*, 23(2), 189-208.

Appendix One: Participant Information Sheet

Title of project: Promoting Engagement with Formal Law and Order Institutions

Researcher: Finbar Kiddle, School of Geography, Environment and Earth Sciences, Victoria University of Wellington

Greetings.

I am a Masters student in Development Studies at Victoria University of Wellington. As part of this degree, I am undertaking a research project leading to a thesis. The project I am undertaking is examining how the Regional Assistance Mission to Solomon Islands is encouraging the public to engage with formal law and order institutions, focusing on the Royal Solomon Islands Police Force.

The University requires ethics approval be obtained, as the project requires talking to people in Solomon Islands.

I will be undertaking interviews with development professionals working for RAMSI and focus groups with the public. Permission will be sought from participants to electronically record these interviews and focus groups, so I can transcribe the material and make research notes. Participation is voluntary, participants do not have to answer all questions and can stop the interview, or leave the focus group at any time.

Should any participants feel the need to withdraw from the project, they may do so without question at any time before the data is analysed. Just let me know at the time.

Responses collected will form the basis of my research project and will be put into a written report on an anonymous basis. It will not be possible for you to be identified personally. All material will be kept confidential. No other person besides me and my supervisor, Prof John Overton, will see the transcribed material.

The thesis will be submitted for marking to the School of Geography, Environment and Earth Sciences, and deposited in the University Library. It is intended that one or more articles will be submitted for publication in scholarly journals. Tapes and research notes will be destroyed five years after the end of the project.

If you have any questions, or would like to receive further information about the project, please contact me at the School of Geography, Environment and Earth Sciences, Victoria University of Wellington, Office phone: +64 04 4635233 extn:8403 mobile: +6427 203 1914, email: Finn.Kiddle@vuw.ac.nz, or my supervisor Prof John Overton, at the School of Geography, Environment and Earth Sciences, ph: +64 04 4635281.

Yours sincerely,

Finbar Kiddle

Appendix Two: Consent to Participate in Research

Title of project: Promoting Engagement with Formal Law and Order Institutions

Researcher: Finbar Kiddle, School of Geography, Environment and Earth Sciences, Victoria University of Wellington

- I have read the Participant Information Sheet and understand the purpose of this research project.
- I understand the interview/focus group will be electronically recorded.
- I understand that I can request to check the transcripts of the interview/focus group before publication
- I understand I can choose not to be electronically recorded.
- I understand I have the right not to answer any question put to me.
- I understand that all information I provide will be safely stored and accessed only by the researcher and research supervisor.
- I understand that my responses will be reported in such a way that I will not be identifiable.
- I understand I will have an opportunity to see a summary of the research.
- I understand I may withdraw myself, and any information I have provided, from this research project without explanation during the interview/focus group, or at any time before 1 November 2013.
- I understand the results of this research will be included in a thesis and be deposited in the University Library. They may also be used for publication in academic or professional journals, and for dissemination at academic or professional conferences.

I agree to take part in this research.

I would like to receive a summary of the results of this research when completed. Yes / No

Name: _____

Organisation: _____

Signed: _____ Date: _____