

Overall Score:

**63 - Weak**

Legal Framework Score:

**71 - Moderate**

Actual Implementation Score:

**51 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

---

### 1.1. <sup>63</sup> Anti-Corruption Non-Governmental Organizations

---

1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

|

No

**Comments:**

Section 3 of Chapter II of the constitution guarantees the right to freedom of "conscience of expression" and of assembly and association.

Section 13 of the same chapter guarantees that "no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests."

**References:**

The Constitution of Solomon Islands 1978, Chapter II, Protection of Fundamental Rights and Freedoms of the Individual, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history

of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**No:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes

|

No

**Comments:**

No laws restrict any individual, organization or group from accepting or raising funds from any source.

**References:**

The Constitution of Solomon Islands 1978, Chapter II, Protection of Fundamental Rights and Freedoms of the Individual, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**No:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes

|

No

**Comments:**

The constitution is silent on foreign or domestic sources of funding for associations and groups.

Section 13, subsection 2 of the constitution on freedom of association says:

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision

- (a) to the interests of defense, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights or freedoms of other persons; or
- (c) that imposes restrictions upon public officers.

No law or regulation requires this information to be made public or to be provided to the state.

**References:**

Constitution, Section 13, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

**No:** A NO score is earned if no such public disclosure requirement exists.

## 2. Are anti-corruption/good governance NGOs able to operate freely?

83

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no practical restrictions regarding political association. A nongovernmental organization like Transparency Solomon Islands may choose to legally incorporate to facilitate its operations, but there are other groups that criticize the government and may be unincorporated with no legal corporate identity. Yet they operate and advocate their views freely without government intimidation.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

**100:** NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

Nongovernmental organizations and the government seem to lack the capacity to engage with each other, despite the will of both sides to understand and implement citizen-driven policymaking. Solomon Islands has little history of public policymaking initiated and developed by citizens, but the capacity and will are growing, albeit from a low base. Transparency Solomon Islands is now considered a legitimate policy partner by the government on issues of anti-corruption and governance.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes

| No

**Comments:**

No nongovernmental organizations were shut down or forced to cease operations by government pressure, express or implied, during the study period.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

Edward Ronia, auditor general, interviewed on July 31, 2012.

**Yes:** A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**No:** A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

|

No

#### Comments:

No NGO activists were imprisoned during the study period for activity or advocacy related to anti-corruption or similar issues.

#### References:

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**No:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes

|

No

**Comments:**

No one was harmed during the reporting period.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

**Yes:** A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes

|

No

**Comments:**

The state in Solomon Islands is weak, and government is perpetually fragile. It presents no significant threat to any group other than itself. No one was killed during the reporting period.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

#### 4. Can citizens organize into trade unions?

100

04a. In law, citizens have a right to organize into trade unions.

**Yes** | **No**

**Comments:**

Section 13 of the constitution states that “no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.”

**References:**

Constitution of Solomon Islands, Chapter II, Section 13, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Trades Union Act, Cap 76, 1996 Consolidation, [www.paclii.org/sb/legis/consol\\_act/tua150/](http://www.paclii.org/sb/legis/consol_act/tua150/)

**Yes:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**No:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

**100** | **75** | **50** | **25** | **0**

**Comments:**

Trade unions operate freely in Solomon Islands and are not subject to any systematic intimidation. But threats and counterthreats may flow between individual employers and unions.

Solomon Islands Council of Trade Unions is a national trade union in the Solomon Islands.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

“Doing Business in Solomon Islands,” Pacific Islands Trade and Investment Commission, Sydney, Australia, 2008.

**100:** Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

## 1.2. Media's Ability to Report on Corruption

### 5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes |  No

#### **Comments:**

The Constitution of Solomon Islands, Chapter 2, Section 12 states:

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence."

#### **References:**

Constitution of Solomon Islands, Chapter II, Section 12, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes |  No

#### **Comments:**

Section 12 of the constitution states that "no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas

and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence."

**References:**

Constitution of Solomon Islands, Chapter II, Sections 11 and 12,  
[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

## 6. Are citizens able to form print media entities?

100

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

In practice, print media are unregulated and require no governmental approval.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

No license is required for print media.

**References:**

No license is required for print media.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**No:** A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No license is required.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, journalist, interviewed July 25, 2012.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.



**Comments:**

No license is required.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, journalist, interviewed July 25, 2012.

Charles Dausabea and Henry Ata Daokalia, President and Vice President, respectively, of Malaita Ma'asina Forum, interviewed Aug. 2, 2012.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

## 7. Are citizens able to form broadcast (radio and TV) media entities?

75

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.



**Comments:**

The government does not interfere with licensing for broadcast media. Broadcasters are regulated by the Television Act (TV) and the Telecommunications Act (radio). The telecommunications regulator has an efficient and apolitical regulatory system for broadcast media using radio frequencies. The Television Act [Cap 116] has a board with a nongovernmental majority, which in practice is apolitical.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former Cabinet minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes

|

No

**Comments:**

Licensing of broadcast media is regulated by the Television Act (TV) and the Telecommunications Act (radio). The regulations do not expressly mention appeal mechanisms for when licenses are denied. In practice this has never happened. Decisions of the respective legal bodies can be brought before a court.

**References:**

Television Act, [www.paclii.org/sb/legis/consol\\_act/ta141/](http://www.paclii.org/sb/legis/consol_act/ta141/)

Telecommunications [radio] Act, [www.paclii.org/sb/legis/consol\\_act/ta214/](http://www.paclii.org/sb/legis/consol_act/ta214/)

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**No:** A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100

|

75

|

50

|

25

|

0

**Comments:**

The government does not interfere with licensing for broadcast media, which are regulated by the Television Act (TV) and the Telecommunications Act (radio). The telecommunications regulator has an efficient and apolitical regulatory system for broadcast media using radio frequencies. The Television Act [Cap 116] has a board with a nongovernmental majority, which in practice is

apolitical. The domestic TV audience constitutes a small percentage of the population, and there is only one locally owned TV station.

To obtain a license takes 30 to 60 days.

**References:**

Mary Louise O'Callaghan, journalist and public relations manager, interviewed Aug. 3, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Hunter Masuguria, undersecretary, in his presentation at the Premier's Conference, Kirakira, Makira-Ulawa Province, on Oct. 24, 2012.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The World Bank's 2012 Doing Business Report states that starting a business in Solomon Islands takes approximately one week. To obtain approval for a company name from the Ministry of Commerce takes one day and to register with the Company Haus list takes one to two days (depending on whether handled through the Internet or in person). To register for taxation, the National Provident Fund and the company seal and to pay a business license fee at the Honiara Council can be done simultaneously within four days. Combined costs are SI\$4,450 (approximately US\$630), which is prohibitive in some cases.

**References:**

Mary Louise O'Callaghan, journalist and public relations manager, interviewed Aug. 3, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Hunter Masuguria, undersecretary, in his presentation at the Premier's Conference, Kirakira, Makira-Ulawa Province, on Oct. 24, 2012.

World Bank, Doing Business Report, "Starting a Business in Solomon Islands," June 2012,  
[www.doingbusiness.org/data/exploreeconomies/solomon-islands/startng-a-business](http://www.doingbusiness.org/data/exploreeconomies/solomon-islands/startng-a-business)

Business Advantage, Solomon Islands, 2012, [http://issuu.com/businessadvantage/docs/ba\\_solomons\\_2012](http://issuu.com/businessadvantage/docs/ba_solomons_2012)

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

## 8. Can citizens freely use the Internet?

100

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

### Comments:

The government does not prevent access to online content.

### References:

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator, journalist, interviewed July 25, 2012.

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

**Comments:**

In practice the government does not censor online content.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator, journalist, interviewed July 25, 2012.

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

---

## 9. Are the media able to report on corruption?

100

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

| No

**Comments:**

Justice Samuel Lungole-Awich in Malasa v. Manakako 1997 wrote, "The law of defamation in Solomon Islands is the Common Law of England."

Further, the United Kingdom Defamation Act of 1952 applies in Solomon Islands. In Sikua v. Tradewinds 2010 Justice David Chetwynd wrote, "By section 6 of that Act a defendant can rely on the defense of fair comment if the opinion expressed is fair comment having regard to those facts actually proved."

Section 12 of the Solomon Islands Constitution guarantees freedom of expression. It states that "no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence."

Further, it guarantees expression that is:

- (a) in the interest of defense, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the administration or the technical operation of telephony, telegraphy, posts, wireless, broadcasting or television; or
- (c) that imposes restriction upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

**References:**

The Constitution of Solomon Islands, Chapter II, Section 12, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Malasa v. Manakako [1997] SBHC 37; HC-CC 191 of 1994 (July 9, 1997),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/1997/37.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/1997/37.html?query=)

Sikua v. Tradewinds Investment Co. Ltd [2010] SBHC 95; HCSI-CC 138 of 2009 (July 20, 2010),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2010/95.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2010/95.html?query=)

**Yes:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**No:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

The current environment for journalists allows for uncensored reporting on corruption.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

The government does not have the capacity to censor corruption-related stories, even if it had the will, which it lacks. "The government" in the Solomon Islands is a constantly shifting group of individuals, who move back and forth between opposition and government and in-between. Thus, the media do not fear any systematic pressure from government in reporting corruption-related stories.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

---

## 10. Are the media credible sources of information?

90

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

**Comments:**

No law expressly requires print media companies to disclose their ownership, however, all companies in Solomon Islands are subject to the Companies Act.

The Registrar of Companies has a public register of all companies operating in Solomon Islands and their ownership structures. All this information is available online.

It is legally possible to place a veil over ownership through the use of complex parent, subsidiary and offshore company structures. In Solomon Islands this has not occurred, and the ownership of all mainstream media is transparent and widely known.

**References:**

Companies Act, Cap 175, 1996 Edition, [www.paclii.org/sb/legis/consol\\_act/ca107/](http://www.paclii.org/sb/legis/consol_act/ca107/)

Company Haus of Solomon Islands, [www.companyhaus.gov.sb/](http://www.companyhaus.gov.sb/)

**Yes:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes

| No

**Comments:**

No law expressly requires broadcast media companies to disclose their ownership, however, all companies in Solomon Islands are subject to the Companies Act.

The Registrar of Companies has a public register of all companies operating in Solomon Islands and their ownership structures. All this information is available online.

It is legally possible to place a veil over ownership through the use of complex parent, subsidiary and offshore company structures. In Solomon Islands this has not occurred, and the ownership of all mainstream media is transparent and widely known.

However, the majority of TV stations that broadcast in Solomon Islands are offshore, e.g. BBC, Australia Network, China TV and Jesus TV, and their ownership structure and operations are not subject to SI law.

**References:**

Companies Act, Cap 175, 1996 edition, [www.paclii.org/sb/legis/consol\\_act/ca107/](http://www.paclii.org/sb/legis/consol_act/ca107/)

Company Haus of Solomon Islands, [www.companyhaus.gov.sb](http://www.companyhaus.gov.sb/)

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

**Comments:**

Journalists are poorly paid, poorly trained, mostly lacking in critical analysis and beholden to weak norms of professional standards. However, standards have improved in recent years, albeit from a low base.

The prime minister has requested the media to report responsibly.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Ramoifuila, Solomon Islands Broadcasting Corp., interviewed Jan. 6, 2012, at Henderson International Airport, Honiara.

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to "sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

**Comments:**

There was no discernible bias during the last election for the National Parliament (2010) or the prime minister (2011).

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Commonwealth Observer Group, "2010 Solomon Island Election — Interim Statement," Aug. 6, 2010,  
[www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm](http://www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm)

"Election of New Solomons PM Sparks Protest," Radio New Zealand International, Nov. 16, 2011, [www.rnzi.com/pages/news.php?op=read&id=64441](http://www.rnzi.com/pages/news.php?op=read&id=64441)

"Solomon Islands Prepares for Election," TV New Zealand, One News, Aug. 3, 2010,  
<http://tvnz.co.nz/world-news/solomon-islands-prepares-election-3684106>

"Tight Security for Solomon Islands Election," Paula Kruger, ABC News, Aug. 4, 2010,  
[www.abc.net.au/pm/content/2010/s2973495.htm](http://www.abc.net.au/pm/content/2010/s2973495.htm)

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

There was no discriminatory media reporting by the state-owned media outlet (Solomon Islands Broadcasting Corporation Limited; SIBC) during campaigning period, during election and election results. Political parties taking part in the elections have been given opportunities such as live presentations of respective political platforms with participation of various entities such as civil society organisations and the National Electoral Commission.

The National Chapter of Transparency International also took part as election observers and also noted no incidences of any bias reporting from the SIBC.

In the Solomon Islands, political parties are ephemeral and have virtually no relevance to an electorate that is still mostly beholden to political identifiers of village, family, and language. Voting is also heavily influenced by the distribution of cash and goods shortly before an election. Candidates are elected as individual personalities, even though some may be very loosely attached to a 'party'. Members of Parliament represent single-member constituencies and counting uses the first-past-the-post method, thus electioneering is intensely local, and elections are won with as little as 6%, and an average of about 20% of votes. (see <http://www.solomonstarnews.com/viewpoint/private-view/6862-why-our-electoral-system-fails-to-achieve-democratisation->)

Given these incentives, media exposure doesn't currently play a significant role in MPs getting elected. There is one privately-owned local TV station, and one publicly-owned radio station, and three privately owned newspapers, and there is no evidence that supports the contention that Solomon Islands media, including the publicly-owned broadcaster, is biased towards either individual candidates or parties.

The government plays no role in determining media access, either formally or informally.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

## 11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes

| No

### Comments:

No journalists were imprisoned during the study period for covering corruption.

### References:

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**No:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

**Yes** | **No**

**Comments:**

There were no documented cases of journalists being assaulted during the study period for their work covering corruption issues.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**Yes:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

**Yes** | **No**

**Comments:**

There were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former government minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**Yes:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**No:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

### 1.3. ~~05~~ Public Requests for Government Information

#### 12. Do citizens have a legal right to request information?

0

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

No law provides for citizens' access to information. The default position of the government and the public service is that all information is confidential.

**References:**

N/A

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**No:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

Citizens do not have a legal right to information.

**References:**

N/A

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**No:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes

No

**Comments:**

Citizens have no legal right to information.

**References:**

N/A

**Yes:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**No:** A NO score is earned if there is no such formal mechanism or institution.

### 13. Is the right to information requests effective?

13

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens may be able to use personal connections, such as ethnic or geographic-origin links to public servants, to obtain information. Government attempts to maintain secrecy are notoriously ineffective.

The prime minister declared that the government had problems with official paper archiving and retrieval. He acknowledged that the auditor general had an insufficient supply of papers and evidence.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Ramoifuila, Solomon Islands Broadcasting Corp., interviewed Jan. 6, 2012, at Henderson International Airport, Honiara.

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, the public service will not respond to attempts by ordinary citizens to get information through regular channels. Citizens may be able to use personal connections, such as ethnic or geographic-origin links to public servants, to obtain information. Government attempts to maintain secrecy are notoriously ineffective.

Most information requests are free. However, this is not the case for offices such as the department of lands and birth/company registry, with technically required information and fees. Citizens can pay for the information. In most cases, rural dwellers face difficulties in being able to afford such services.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The prevailing culture in the public service is that "Information is power." Thus, information is not given freely to ordinary members of the public. This is especially the case because there are no freedom of information laws. However, personal connections can help someone obtain almost any government information. Many public servants do not have the technical capacity to discern appropriate requests for information and revert to the default position of noncooperation. Anecdotally, the smaller ministries are more amenable to fair and sensible requests for information. Despite commitments in workshops, conferences, etc., to enact freedom of information laws, no Solomon Islands government has followed through with concrete action.

The government, through agencies such as the Ministry of Finance and Treasury and the police, issues monthly and weekly report/press releases via the Internet or the local newspapers. This information is high quality. There are other offices, such as the Ministry of Rural Development, where information is difficult to obtain because the ministry disburses funds relating to members of the National Parliament.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to Cabinet, and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader, former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Aug. 2, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist, public affairs manager for the Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to Solomon Islands Parliament, interviewed Dec. 12, 2012.

Solomon Islands Freedom of Information Workshop, Feb. 23-25, 2009,  
[www.undppc.org.fj/userfiles/file/Outcomes%20Statement%20-%20for%20circulation.pdf](http://www.undppc.org.fj/userfiles/file/Outcomes%20Statement%20-%20for%20circulation.pdf)

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**

**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no formal channels for appeals. Record keeping is generally so poor that even finding information being sought by a citizen may be impossible.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former Cabinet minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no formal channels for appeals.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former Cabinet minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

**Comments:**

Public servants and government feel no obligation to explain their actions through formal channels.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Joses Tuhanuku, trade unionist, political adviser and former Cabinet minister, interviewed Aug. 2, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

---

## Category 2. Elections

---

### 2.1. <sup>62</sup> Voting and Party Formation

---

#### 14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes

| No

**Comments:**

Universal and equal adult suffrage is guaranteed to all citizens, but exceptions apply. For example, citizens are not allowed to vote if they are found to be of unsound mind and/or are under custodial sentence of more than six months.

**References:**

Constitution of Solomon Islands 1978, Chapter VI, Section 55,  
[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**No:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes

|

No

**Comments:**

The law states that Parliament continues for four years from the date of its first sitting after a general election, and it then stands dissolved. A general election is held within four months of every dissolution of Parliament, as designated by the governor-general through publication in the Gazette.

**References:**

Constitution of Solomon Islands 1978, Sections 73 and 74, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**No:** A NO score is earned if no such framework exists.

## 15. Can all citizens exercise their right to vote?

100

15a. In practice, all adult citizens can vote.

100

|

75

|

50

|

25

|

0

**Comments:**

All adult citizens can vote.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

Ballots are kept secret because of the involvement of the police in transferring ballot boxes from voting polls to counting stations and because of citizens' privacy in casting their votes.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Commonwealth Observer Group, "2010 Solomon Island Election — Interim Statement," Aug. 6, 2010, [www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm](http://www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm)

"Election of New Solomons PM Sparks Protest," Radio New Zealand International, Nov. 16, 2011, [www.rnzi.com/pages/news.php?op=read&id=64441](http://www.rnzi.com/pages/news.php?op=read&id=64441)

"Solomon Islands Prepares for Election," TV New Zealand, One News, Aug. 3, 2010, <http://tvnz.co.nz/world-news/solomon-islands-prepares-election-3684106>

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on a press release from the Electoral Commission, elections appear to occur on time. The press release was for the recent by-elections on Aug. 1, 2012. The election for prime minister was held in 2011 (by Parliament), and the previous parliamentary elections were in 2010 and 2006. All were held as regularly scheduled.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

[www.solomontimes.com/news.aspx?nwID=7065](http://www.solomontimes.com/news.aspx?nwID=7065)

Accessed Sept. 4, 2012

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

## 16. Are citizens able to participate equally in the political process?

95

16a. In law, all citizens have a right to form political parties.

Yes | No

**Comments:**

No particular legal framework applies to political parties, other than the general freedom of association articles of the constitution.

**References:**

Constitution of Solomon Islands 1978, Section 13.

**Yes:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**No:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

**Yes** | **No**

**Comments:**

The constitution states in Chapter VI, the qualifications for membership in Parliament:

48. Subject to the provisions of the next following section, a person shall be qualified for election as a member of Parliament if, and shall not be so qualified unless:

- (a) he is a citizen of Solomon Islands; and
- (b) he has attained the age of twenty-one years.

**Disqualifications from membership**

49. (1) No person shall be qualified for election as a member of Parliament who:

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) holds, or is acting in, any public office;
- (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth;
- (d) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Solomon Islands;
- (e) is under sentence of death imposed on him by a court in any part of the world, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (f) is disqualified from membership of Parliament or from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offenses connected with elections; or
- (g) holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to Parliament or the compilation or revision of any electoral register for that purpose.

(2) For the purpose of paragraph (e) of the preceding subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

**References:**

Chapter VI, Sections 48 and 49 of the Constitution of the Solomon Islands prescribing qualifications for Parliament, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**No:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

The freedom of citizens to form political parties has never been restricted. Before the 2010 elections, numerous political parties formed, including the Direct Development Party; New Nations Solomon Islands Party; Solomon Islands People's Congress Party; Reform Democratic Party of Solomon Islands; Rural Congress People's Party; Ownership, Unity and Responsibility Party; People's Federation Party; Autonomous Solomon Islanders Party; Twelve Pillars to Peace and Prosperity Party; People's Power Action Party; Rural and Urban Political Party; and the Christian Progressive Party.

Other parties have been in existence longer: the Democratic Party, National Party, People's Alliance Party, Solomon Islands Party for Rural Advancement, Solomon Islands Liberal Party, Association of Independent Members and the Solomon Islands United Party.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

Some people from rural areas who hope to run for political office can be affected by the cost. Otherwise, everyone can run for office.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | **75** | 50 | 25 | 0

**Comments:**

The leader of the opposition position in the legislature is Derek Sikua, who leads an opposition party. The Independent party is also led by some opposition members of Parliament. As it is, the opposition and the independents do not have the numbers to make up a new government; they represent the minority.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

## 2.2. Election Integrity

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes

No

**Comments:**

Section 53 establishes the Constituency Boundaries Commission, and Sections 57 and 58 establish the Electoral Commission.

**References:**

Constitution of Solomon Islands 1978, Section 53, 57 and 58, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

50

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes

No

**Comments:**

The speaker of Parliament, who is an elected member of Parliament, is chairman of the Electoral Commission. The two other commissioners are appointed through the Judicial and Legal Service Commission.

**References:**

Constitution of Solomon Islands 1978, Section 57, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Solomon Islands had not changed the head of elections since his appointment in 2006. The chief electoral officer, Polycarp Haununu, was appointed, based on advice from the Public Service Commission, without controversy.

Other Electoral Commission staff members appointed within the specified period (June 2011 to June 2012) were selected according to public service criteria. They did not come with affiliations.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Part-time employees such as the returning officer and assistant returning officer are paid SBD100 (US\$13) per day in local currency. Approximately 340 officers worked part time during elections.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

No elections were held during the reporting period of June 2011 to June 2012. National elections were conducted in August 2010 and by-elections in August 2012. Citizens obtain results through radio, TV and newspaper reports.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

[www.solomontimes.com/news.aspx?nwID=7065](http://www.solomontimes.com/news.aspx?nwID=7065)  
accessed Sept. 4, 2012

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

No agency exists with the mandate to impose penalties through the courts.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

---

19. Are elections systems transparent and effective?

92

19a. In practice, there is a clear and transparent system of voter registration.

**Comments:**

Voter registration has not been transparent or efficient.

The voter list was not updated for the August 2012 elections, and citizens could vote only if they had been on the list for the previous election cycle.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

"Bye-Election Contestants List Finalized," Solomon Times Online, July 11, 2012,

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and "ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

**Yes**

| No

**Comments:**

Section 82 of the National Parliament Electoral Provisions Act 1996 states, "All questions which may arise from any election as to the right of any person to be or remain an elected member of the National Parliament shall be referred to and determined by the Court on a petition presented by the Attorney-General or by an elector, in accordance with the procedure prescribed by Rules made under section 85 for the presentation and hearing of an election petition and the decision of the Court on any such petition shall be final and shall not be questioned in any other proceedings."

**References:**

National Parliament Electoral Provisions Act 1996, Part IV, Sections 82 to 85. [www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

**Yes:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**No:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Election appeals are fair, without general complaints about the process.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**Comments:**

There were no reports of election interference by military or security forces.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Commonwealth Observer Group, "2010 Solomon Island Election — Interim Statement," Aug. 6, 2010, [www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm](http://www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm)

"Election of New Solomons PM Sparks Protest," Radio New Zealand International, Nov. 16, 2011, [www.rnzi.com/pages/news.php?op=read&id=64441](http://www.rnzi.com/pages/news.php?op=read&id=64441)

"Solomon Islands Prepares for Election," TV New Zealand, One News, Aug. 3, 2010, <http://tvnz.co.nz/world-news/solomon-islands-prepares-election-3684106>

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes

|

No

**Comments:**

There are no legal restrictions on observation of elections. Elections are regularly observed by groups representing the Commonwealth Secretariat.

**References:**

Commonwealth Observer Group, "2010 Solomon Island Election — Interim Statement," Aug. 6, 2010, [www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm](http://www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm)

**Yes:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**No:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

**Comments:**

Both the European Union and The Commonwealth had election observer missions for the most recent Solomon Island national elections, which were held in 2010.

**References:**

Commonwealth Observer Group, "2010 Solomon Island Election — Interim Statement," Aug. 6, 2010, [www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm](http://www.thecommonwealth.org/news/228195/060810solomonislandsinterim.htm)

Delegation of the European Union to Solomon Islands, Solomon Islands Civil Society Organization Election Observation Project, May 2010 to January 2011, [http://eeas.europa.eu/delegations/solomon/projects/list\\_of\\_projects/245914\\_en.htm](http://eeas.europa.eu/delegations/solomon/projects/list_of_projects/245914_en.htm)

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

## 81 2.3. Political Financing Transparency

### 20. Are there regulations governing the financing of political parties?

Yes | No

**Comments:**

Political parties in Solomon Islands are weak and ephemeral. Members of Parliament win elections based on personal attributes, not party connections, and they switch parties regularly. Thus, the primary focus of political financing in Solomon Islands is the individual MP.

**References:**

No laws govern private contributions to political parties or candidates.

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No

**Comments:**

Political parties in Solomon Islands are weak and ephemeral. Members of Parliament win elections based on personal attributes, not party connections, and they switch parties regularly. Thus, the primary focus of political financing in Solomon Islands is the individual MP.

**References:**

No law governs corporate donations to political parties.

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes | No

**Comments:**

Political parties in Solomon Islands are weak and ephemeral. Members of Parliament win elections based on their personal attributes, not party connections, and they switch parties regularly. Thus, the primary focus of political financing in Solomon Islands is the individual MP.

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs only electoral expenses of candidates. It states:

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The expenditure limit was lifted in the National Parliament Electoral Provisions (Amendment) Act 1997 to SI\$50,000 (US\$7,076) for any one candidate.

**References:**

Section 45 of the National Parliament Electoral Provisions Act, Cap 87, [www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**No:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes

|

No

**Comments:**

Political parties in Solomon Islands are weak and ephemeral. Members of Parliament win elections based on their personal attributes, not party connections, and they switch parties regularly. Thus, the primary focus of political financing in Solomon Islands is the individual MP.

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs electoral expenses of candidates ([www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)).

The National Parliament Electoral Provisions (Amendment) Act 1997 lifted the amount of expenditure allowed for any one candidate to SI\$50,000 (US\$7,076).

**References:**

There are no laws requiring the disclosure of donations to political parties.

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes

No

**Comments:**

No laws govern the auditing of the financing and the spending of political parties.

**References:**

N/A

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes

No

**Comments:**

Political parties in Solomon Islands are weak and ephemeral.

**References:**

No agency monitors the financing of political parties.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

21. Are there regulations governing the financing of individual political candidates?

40

21a. In law, there are limits on individual donations to political candidates.

Yes

No

**Comments:**

No law governs individual donations to political candidates, but Section 45 of the electoral law prohibits expenditures of more than SI\$50,000 by candidates, thus acting as a proxy legal limit on donations.

**References:**

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs electoral expenses of candidates.  
[www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

The National Parliament Electoral Provisions (Amendment) Act 1997 lifted the amount of allowed expenditures by any one candidate to SI\$50,000 (US\$7,076).

The Leadership Code (Further Provisions) Act [Cap 86] states that leaders (see Chapter VIII of the constitution) must make financial disclosure to the Leadership Code Commission (see Part II), however, the law in this regard is very weak and easily evaded.

[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes

|

No

**Comments:**

No law governs corporate donations to political candidates, but Section 45 of the electoral law prohibits expenditures of more than SBD50,000 by candidates, thus acting as a proxy legal limit on donations.

**References:**

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs electoral expenses of candidates.  
[www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

The National Parliament Electoral Provisions (Amendment) Act 1997 lifted the amount of allowed expenditures by any one candidate to SBD50,000 (US\$7,076).

The Leadership Code (Further Provisions) Act [Cap 86] states that leaders (see Chapter VIII of the constitution), must make financial disclosure to the commission (see Part II), however, the law in this regard is very weak and easily evaded.

[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

**Comments:**

The Leadership Code (Further Provisions) Act [Cap 86] states that leaders (see Chapter VIII of the constitution as source of Leadership Code law) must make financial disclosure to the [Leadership Code] Commission (see Part II).

Leadership Code (Further Provisions) Act [Cap 86], Part II Disclosure of Financial Affairs states:

5. (1) Every Leader shall, within three months of the date of commencement of this Act or of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children under the age of eighteen setting out to the best of his knowledge:
  - (a) all directorships in any company or corporation held by each of them;
  - (b) the business occupations of each of them;
  - (c) the holdings of each of them of any shares of, or debentures or other securities charged upon, any company or corporation;
  - (d) the total income received by each of them during the period to which the statement relates and the sources of each of those incomes;
  - (e) all business transactions involving a sum of five hundred dollars or more entered into by each of them during the period to which the statement relates;
  - (f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts; and
  - (g) the assets acquired by each of them during the period of which the statement relates.

However, the law is very weak and easily evaded. Maximum fines available to the commission are SBD5,000 (US\$705), and fines have never been imposed by the commission for nondisclosure of electoral donations.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II Disclosure of Financial Affairs,  
5, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

**Comments:**

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs electoral expenses of candidates. Candidates must submit to the Electoral Commission within one month of the declaration of the election results a statement of all election-related expenses, but this statement is not audited.

The Leadership Code (Further Provisions) Act [Cap 86] also states that leaders (see Chapter VIII of the constitution) must make financial disclosure to the [Leadership Code] Commission (see Part II), however, this disclosure also is not audited.

**References:**

Leadership Code (Further Provisions) Act [Cap 86] ,  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Section 45 of the National Parliament Electoral Provisions Act [Cap 87], [www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)  
[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

**Yes** | **No**

**Comments:**

The Electoral Commission has a legal mandate to monitor election-related expenses of candidates to ensure they do not exceed SI\$50,000. To date, this monitoring has not been done.

**References:**

Section 45 of the National Parliament Electoral Provisions Act [Cap 87] governs electoral expenses of candidates.  
[www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

22. Are the regulations governing the political financing of parties effective?

0

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

During elections and post-election period, the voters were unable to establish the type and amount of electoral assistance given by individuals toward political party assistance. These sort of information remained outside the public domain and cannot be accessible to the public or political party rivals. All sector including the State has no information of such individual assistance donated toward any one political party.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

No agency with that mandate exists. The National Electoral Commission is not required to monitor political financing.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

No entity monitors political financing because no law addresses the subject. The National Electoral Commission is not required to monitor political financing.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Contributions to political parties are not audited. No law provides for this.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012, at Gizo, Honiara.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012, at Gizo, Honiara.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012, at Gizo, Honiara.

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

Individual funding is not restricted, only a candidate's spending.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no limits on corporate funding, only on individual candidates' spending.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency,

interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

No agency is authorized to monitor campaign financing, not even the National Electoral Commission.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, thought limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

No agency monitors this.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

National Parliament Electoral Provisions Act, Cap 87, [www.paclii.org/sb/legis/consol\\_act/npepa426/](http://www.paclii.org/sb/legis/consol_act/npepa426/)

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

No reports are audited.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

## 24. Can citizens access records related to the financing of political parties?

0

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100

75

50

25

0

**Comments:**

Citizens have no chance to access such information.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Political parties disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regularly withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens have no access to this information.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens have no chance to get such records.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens have no access to such information.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens never have access to election data about financial support.

**References:**

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

Ethel Frances, consultant for the United Nations Development Program and European Union and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 4, 2012.

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regularly withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens cannot obtain financial records of individual candidates.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Information on the financing of individual candidates' campaigns cannot be obtained by anyone.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Such records are never available.

**References:**

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

---

### Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

---

#### 3.1. <sup>57</sup>Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

---

26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes

| No

**Comments:**

Section 18 (1) of the constitution states, "Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 3 to 16 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress."

**References:**

Constitution of Solomon Islands 1978, Chapter II, Section 18, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**No:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

## 27. Can the chief executive be held accountable for his/her actions?

50

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

The National Parliament is the primary source of accountability for the prime minister, who is the chief executive of government in Solomon Islands. The degree to which the prime minister is held to public account for his actions depends on how strong his numbers are in Parliament. An opposition group that can sense that a vote of no confidence is near will seek to expose any political weaknesses the prime minister has. Because Solomon Islands political cycles are short, policy questions seldom enter the public realm. Corruption and other scandals are the usual points of exposure for the prime minister and his ministers.

Media constitute the secondary source of accountability for the prime minister. They will often follow the flow of events in Parliament. If the prime minister feels comfortable with his support on the floor of Parliament, he will not feel so compelled to accommodate the media, or for that matter Parliament. The media are held back in expanding the accountability of the prime minister mostly by their limited journalistic capacity, not by external intimidation.

For example, Job Dudley Tausinga, a member of Parliament from North New Georgia (In the Western Solomon), said, "In the past years the successive government has spent more than \$200 million (USD25 million) on importing rice and because of this trend the government under the NCRA government in its policy wants the people to allow their resources so that the income generated could be used on other services like, education, health and infrastructure development."

Prime Minister Gordon Darcy Lilo "assured the community that his government is committed to pump in money to assist [the] agricultural sector and from 2013-2014 it should in the budget."

In another instance, when Lilo declared his support for the Asia-Pacific coconut declaration, the Solomon Star reported that "Mr. Lilo said the records indicated that amongst all export of agricultural products during the ethnic crisis period, only copra and cocoa exports were ongoing during that period."

**References:**

"Dr Sikua Calls for Parliament Sitting," Solomon Star, July 23, 2012, [www.solomonstarnews.com/news/national/15490-dr-sikua-calls-for-parliament-sitting](http://www.solomonstarnews.com/news/national/15490-dr-sikua-calls-for-parliament-sitting)

"MPs Query 10M Forestry Funds," Solomon Star, Nov. 22, 2012, [www.solomonstarnews.com/news/national/16529-mps-query-10m-forestry-funds](http://www.solomonstarnews.com/news/national/16529-mps-query-10m-forestry-funds)

"Rice project launched in North New Georgia," Solomon Star, Dec. 15, 2011, <http://www.solomonstarnews.com/news/business/13157-rice-project-launched-in-north-new-georgia->

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes

| No

**Comments:**

The High Court has original jurisdiction to determine the constitutionality of any legislative or executive act, with some exceptions.

Section 77 (1) of the constitution states, "There shall be a High Court for Solomon Islands which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other jurisdiction and powers as may be conferred on it by this Constitution or by Parliament."

Furthermore, Section 83 allows for judicial review of executive acts, except for certain exemptions for actions of the governor-general and the ombudsman.

Section 83 states:

(1) Subject to the provisions of section 31(3) and 98(1) of, and paragraph 10 of Schedule 2 to, this Constitution, if any person alleges that any provision of this Constitution (other than Chapter II) has been contravened and that his interests are being or are likely to be affected by such contravention, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction, in any application made by any person in pursuance of the preceding subsection or in any other proceedings lawfully brought before the Court, to determine whether any provision of this Constitution (other than Chapter II) has been contravened and to make a declaration accordingly:

Provided that the High Court shall not make a declaration in pursuance of the jurisdiction conferred by this subsection unless it is satisfied that the interests of the person by whom the application under the preceding subsection is made or, in the case of other proceedings before the Court, a party to those proceedings, are being or are likely to be affected.

(3) Where the High Court makes a declaration in pursuance of the preceding subsection that any provision of the Constitution has been contravened and the person by whom the application under subsection (1) of this section was made or, in the case of other proceedings before the Court, the party in those proceedings in respect of whom the declaration is made, seeks relief, the High Court may grant to that person such remedy, being a remedy available against any person in any proceedings in the High Court under any law for the time being in force in Solomon Islands, as the Court considers appropriate.

(4) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 52 of this Constitution otherwise than upon an application made in accordance with the provisions of that section.

**References:**

Constitution of Solomon Islands 1978, Part II, Sections 77 and 83,  
[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Nori v. Attorney General [2006] SBHC 134; HCSI CC 172 of 2005 (April 4, 2006),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2006/134.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2006/134.html?query=)

Wale v. Attorney General [2011] SBHC 35; HCSI-CC 73 of 2011 (May 20, 2011),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2011/35.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2011/35.html?query=)

Makasi v. Commander of PPF [2008] SBCA 2; CA-CAC 1 of 2008 (July 18, 2008),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBCA/2008/2.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBCA/2008/2.html?query=)

**Yes:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

The doctrine of separation of powers operates to ensure the independence of these institutions, but the judiciary can review administrative decisions of the executive. The judiciary has never reviewed the actions of the executive, except when a citizen has sought redress in the courts for some action.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | **25** | 0

**Comments:**

There is no public information about whether this has been happening.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

---

## 28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

**Yes** | No

**Comments:**

No exemption or immunity from prosecution is granted to the prime minister, who is the head of government. The head of state of Solomon Islands is Queen Elizabeth II of England, as represented by the governor-general.

**References:**

Regina v. Kemakeza [2008] SBHC 41; HCSI-CRC 467 of 2007 (Sept. 3, 2008),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2008/41.html](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2008/41.html)

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes

|

No

**Comments:**

There is no exemption or immunity from prosecution for minister-level officials.

While serving as a member of Parliament and a Cabinet minister, Jimmy Lusibaea was convicted in 2010 of unlawful wounding and assaulting a police officer, offenses that occurred in 2000.

However, in Zama v. Regina, the High Court acquitted Minister Francis Zama. The court ruled that as a minister, Zama did not come under the definition of a public servant in Section X of the Penal Code covering official corruption and that instead he should have been processed under the Leadership Code.

But in Rojumana v. Reginam [2009] SBCA 9; CA-CRAC 15 of 2008 (March 26, 2009) the court found that the Zama case was incorrectly decided. The Court of Appeals said, "This same definition was previously considered in the High Court in Zama v. Regina [2007] SBHC 113. In that appeal from the magistrates' court, the Crown, it is now conceded, made an improper concession with regard to the definition. Given the interpretation adopted by this court, it is clear that the Zama case was incorrectly decided and should not be followed."

**References:**

Regina v. Lusibaea [2010] SBHC 80; HCSI-CRC 291 of 2007 (Nov. 30, 2010).

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

**Yes** | **No**

**Comments:**

All leaders, as covered by the Leadership Code (see Section 93 of the constitution), must file financial disclosure statements every two years.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5.

**Yes:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

**Yes** | **No**

**Comments:**

All leaders, as covered by the Leadership Code (see Section 93 of the constitution), must file financial disclosure statements every two years.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5.

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**No:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

**Yes** | **No**

**Comments:**

The Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5. requires that leaders declare as part of their financial disclosure (f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts.

However, Part II, Section 5 (3) of the act states: In the case of assets, income or gifts involving amounts less than one hundred dollars, it shall be sufficient if the statement gives general particulars and approximate amounts or values.

(4) It shall not be necessary for a Leader to include in the statement made under subsection (1) details of gifts made to himself, his wife or any of his children during the course of each year in any case where such gifts  
(a) were received from his spouse or children; or  
(b) were offered at or in connection with a custom ceremony; or  
(c) not being gifts falling within categories (a) or (b) above, were of a total value of ten dollars or less.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes

|

No

**Comments:**

There is no legal provision for the independent auditing of financial disclosure statements from leaders.

**References:**

N/A

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes

|

No

**Comments:**

After they leave public office, officials face no restrictions on their employment.

**References:**

N/A

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Peter Boyers and Michael Maina, ex-members of Parliament, are examples of former government officials who have influenced government on private sector decisions. They joined the private sector after failed re-election attempts.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

No gifts registry is available for viewing because no one is recording when gifts are given or received.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100      |      75      |      50      |      25      |      **0**

**Comments:**

The executive branch has never been audited by the Office of the Auditor General or the Leadership Code Commission.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

### 30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes

No

**Comments:**

Financial disclosure statements filed in accordance with the Leadership Code are not made available to the public.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5 (6).

**Yes:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100

75

50

25

0

**Comments:**

Asset disclosure records are confidential information held within the Leadership Code Commission. Their disclosure can be made by court order only.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

This is confidential information held within the Leadership Code Commission. Disclosure can be made by court order only. Thus, no cost can be determined for access to this information.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

These records are impossible to obtain, let alone to determine their quality.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

---

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, official government functions are kept separate by the ruling party. An example is the closing ceremony for the political bill consultation, where the group of participants was balanced.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principle, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

### 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

#### 32. Can members of the legislature be held accountable for their actions?

100

32a. In law, the judiciary can review laws passed by the legislature.

Yes

|

No

##### Comments:

Section 77 (1) of the constitution states, "There shall be a High Court for Solomon Islands which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other jurisdiction and powers as may be conferred on it by this Constitution or by Parliament."

Furthermore, Section 83 provides original jurisdiction for the High Court to hear all matters related to constitutional questions. It states:

(1) Subject to the provisions of section 31(3) and 98(1) of, and paragraph 10 of Schedule 2 to, this Constitution, if any person alleges that any provision of this Constitution (other than Chapter II) has been contravened and that his interests are being or are likely to be affected by such contravention, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction, in any application made by any person in pursuance of the preceding subsection or in any other proceedings lawfully brought before the Court, to determine whether any provision of this Constitution (other than Chapter II) has been contravened and to make a declaration accordingly:

Provided that the High Court shall not make a declaration in pursuance of the jurisdiction conferred by this subsection unless it is satisfied that the interests of the person by whom the application under the preceding subsection is made or, in the case of other proceedings before the Court, a party to those proceedings, are being or are likely to be affected.

(3) Where the High Court makes a declaration in pursuance of the preceding subsection that any provision of the Constitution has been contravened and the person by whom the application under subsection (1) of this section was made or, in the case of other proceedings before the Court, the party in those proceedings in respect of whom the declaration is made, seeks relief, the High

Court may grant to that person such remedy, being a remedy available against any person in any proceedings in the High Court under any law for the time being in force in Solomon Islands, as the Court considers appropriate.

(4) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 52 of this Constitution otherwise than upon an application made in accordance with the provisions of that section.

**References:**

Constitution of Solomon Islands 1978, Sections 77 and 83, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

The judiciary interprets the law. At times the judiciary's decision on provisions of a law can amount to a review of the legislature's actions if a provision is repugnant to natural justice or violates the constitution.

For example, in August 2011, the judiciary reviewed the legality of deporting former Solomon Islands Attorney General Julian Moti.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

World Socialist Web Site, Patrick O'Connor, "Unlawful Australian Government Action Alleged in Julian Moti Case," Aug. 4, 2011, [www.wsws.org/articles/2011/aug2011/moti-a04.shtml](http://www.wsws.org/articles/2011/aug2011/moti-a04.shtml)

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes |  No

**Comments:**

No member of the legislature has implied or express exemption from criminal prosecution.

**References:**

Kemakeza v. Regina [2008] SBHC 44; HCSI-CRC 478 of 2007 (Aug. 22, 2008).

Regina v. Lusibaea [2010] SBHC 80; HCSI-CRC 291 of 2007 (Nov. 30, 2010).

Kemakeza v. Regina [2012] SBHC 40; HCSI-CRC 110 of 2012 (May 3, 2012),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2012/40.html](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2012/40.html)

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

---

### 33. Are there regulations governing conflicts of interest by members of the national legislature?

29

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes |  No

**Comments:**

All members of the national legislature are covered by Section II of the Leadership Code and are required to file financial disclosure statements at intervals not exceeding two years.

Section II states:

5. (1) Every Leader shall, within three months of the date of commencement of this Act or of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children under the age of eighteen setting out to the best of his knowledge:
  - (a) all directorships in any company or corporation held by each of them;
  - (b) the business occupations of each of them;
  - (c) the holdings of each of them of any shares of, or debentures or other securities charged upon, any company or corporation;
  - (d) the total income received by each of them during the period to which the statement relates and the sources of each of those incomes;
  - (e) all business transactions involving a sum of five hundred dollars or more entered into by each of them during the period to which the statement relates;
  - (f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts; and
  - (g) the assets acquired by each of them during the period of which the statement relates.

- (2) The period to which a statement under subsection (1) shall relate is  
(a) in the case of the first statement made by a Leader, the preceding three months;  
(b) in any other case, the period since the last statement was given:

Provided that no Leader who has resigned his office within three months of the date of commencement of this Act shall be required to make a statement in respect of any period prior to such resignation.

(3) In the case of assets, income or gifts involving amounts less than one hundred dollars, it shall be sufficient if the statement gives general particulars and approximate amounts or values.

(4) It shall not be necessary for a Leader to include in the statement made under subsection (1) details of gifts made to himself, his wife or any of his children during the course of each year in any case where such gifts  
(a) were received from his spouse or children; or  
(b) were offered at or in connection with a custom ceremony; or  
(c) not being gifts falling within categories (a) or (b) above, were of a total value of ten dollars or less.

(5) The statement made in accordance with subsection (1) shall be submitted to the Commission.

(6) Statements and information given to the Commission under the provisions of this section or section 6 shall not be revealed to any person except  
(a) in the course of the duties of the Commission; or  
(b) for the purpose of proceedings or possible proceedings under section 21; or  
(c) under an order of a court of competent jurisdiction.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes      |      **No**

**Comments:**

There are no legal restrictions regarding employment of those who hold public office after they leave public office.

**References:**

N/A

**Yes:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

**Yes** | **No**

**Comments:**

The Leadership Code requires every leader to submit "at intervals not exceeding two years" a statement regarding financial disclosures that include significant gifts and hospitality. The Leadership Code Commission does not audit these statements.

Section 5 (1) (f) of the Leadership Code Act states:

[S]ubject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts.

Furthermore ...

(3) In the case of assets, income or gifts involving amounts less than one hundred dollars, it shall be sufficient if the statement gives general particulars and approximate amounts or values.

(4) It shall not be necessary for a Leader to include in the statement made under subsection (1) details of gifts made to himself, his wife or any of his children during the course of each year in any case where such gifts

(a) were received from his spouse or children; or

(b) were offered at or in connection with a custom ceremony; or

(c) not being gifts falling within categories (a) or (b) above, were of a total value of ten dollars or less.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Disclosure of Financial Affairs, Section 5,  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

**Yes** | **No**

**Comments:**

There is no legal requirement for the independent auditing of financial disclosure statements submitted to the Leadership Code Commission.

**References:**

N/A

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

**Comments:**

National legislators (members of Parliament) face no formal employment restrictions after they leave office. In practice, it is rarely an issue. Lobbying is not part of Solomon Islands political culture because those who seek policy influence can purchase it directly and do not need an intermediary. The influence of MPs and ministers diminishes rapidly once they leave office. The party system is weak, and there is no strong culture of "apparatchik," in which party officials can influence MPs or ministers. Individual businessmen involved with the logging industry have considerable direct influence with ministers and MPs, e.g., through the funding of motions of no confidence.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Braithwaite, Dinnen, et al, "Pillars and Shadows: Statebuilding as Peacebuilding in Solomon Islands," page 71, ANU ePress, 2010.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

**Comments:**

Gifts accorded to national legislators when they toured constituencies or were on government business frequently occurred and were reported, but were not observed or recorded by government institutions. Hospitality is an issue with the current prime minister, Gordon D. Lilo, who lived in a hotel most of his previous four-year term in Parliament (2006 to 2010) and half of this term. He moved to the prime minister's residence in mid-2012. The issue became public information when the opposition leader issued a press release regarding hospitality offered to government leaders.

The government does not have any registry of gifts received by government officers. An example is that gifts presented to the prime minister were mentioned to be directly donated to a hospital, but there was no mention of any registry procedure before they were given away.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

"Inconsistency in Prime Minister's Hotel Cost Intriguing," Island Sun, June 5, 2012,  
[www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=5043:inconsistency-in-pms-hotel-cost-intriguing-&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=5043:inconsistency-in-pms-hotel-cost-intriguing-&catid=36:latest-news&Itemid=79)  
 accessed Nov. 27, 2012

"Detail Costs Exposed," Ednal Palmer, Solomon Star, May 17, 2012,  
[www.solomonstarnews.com/news/national/14685-detail-costs-exposed](http://www.solomonstarnews.com/news/national/14685-detail-costs-exposed)  
 accessed Nov. 27, 2012

"SIDT Gives PM Home Feeling," Island Sun, May 8, 2012,  
[www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=4835:sidt-gives-pm-home-feeling&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=4835:sidt-gives-pm-home-feeling&catid=36:latest-news&Itemid=79)  
 accessed Nov. 27, 2012

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

**Comments:**

The national legislature has never been audited.

**References:**

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

---

#### 34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes

|

No

**Comments:**

Asset disclosures of legislators are not published in the public record.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5 (6),  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100

|

75

|

50

|

25

|

0

**Comments:**

Asset records of national legislators are unavailable to citizens. Thus, it is impossible to know the cost of searching for such records.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Emmanuel Kouhota, chairman of Leadership Code Commission, interviewed Aug. 18, 2012, at Panatina Commonwealth Youth Program during the political integrity bill consultation, Honiara.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100      |      75      |      50      |      25      |      0

**Comments:**

Asset disclosure records have never been available to citizens.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Emmanuel Kouhota, chairman of Leadership Code Commission, interviewed Aug. 18, 2012, at Panatina Commonwealth Youth Program during the political integrity bill consultation, Honiara.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The asset records of the national legislators are not available to citizens, thus it is not possible to know the quality of such records.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Emmanuel Kouhota, chairman of Leadership Code Commission, interviewed Aug. 18, 2012, at Panatina Commonwealth Youth Program during the political integrity bill consultation, Honiara.

**100:** The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

---

### 35. Can citizens access legislative processes and documents?

25

35a. In law, citizens can access records of legislative processes and documents.

Yes | No

**Comments:**

No law expressly requires that the records of legislative proceedings be made public.

**References:**

N/A

**Yes:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special

secret sessions related to national security).

**No:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The legislative process in Solomon Islands mostly refers to the drafting and passing of bills in Parliament. The administrative capacity of Parliament has increased dramatically in recent years through a parliamentary support project of the United Nations Development Program and the commitment of professionals who are parliamentary staff members. Consequently, the committee process that oversees bills is functioning well. Politically sensitive information is not quarantined from public view.

Even though the administration of lawmaking is functioning well, the political aspect is not, and the country's legislative framework in most areas is in varying states of disrepair because of political apathy. Ordinary citizens have fairly open access to the lawmaking process through Parliament and its committees, and Parliament's website presence has improved dramatically. However, rural dwellers with no Internet access make up a majority of the country and would find it very difficult to gain access to this information.

Public Information/reports/decisions from the courts, auditor general, parliamentary debates and parliamentary standing and select committees can be easily viewed or obtained via the Internet.

But information is difficult to obtain from some offices, such as the Cabinet Office, Lands Department and Leadership Code Commission. This can extend to not responding to requests.

**References:**

Ninth Parliament Bills and Legislation Committee,  
[www.parliament.gov.sb/index.php?q=node/490](http://www.parliament.gov.sb/index.php?q=node/490)

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | **25** | 0

**Comments:**

Citizens cannot access legislative processes and documents.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

38

### 3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

36. Are judges appointed fairly?

100

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

| No

**Comments:**

Section 78 of the constitution states:

(1) The Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission. (2) The puisne judges shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

Puisne judges are regular members of the court

It should be noted that public oversight is limited. There are no public debates or a public confirmation process.

**References:**

Constitution of Solomon Islands 1978, Section 78, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100

| 75

| 50

| 25

| 0

**Comments:**

The constitutional provisions ensure that the executive has little influence over judicial selection. In fact, the judicial appointments are made by the governor-general upon the advice of the Judicial and Legal Service Commission, comprising the chief justice, the attorney general, the chairman of the Public Service Commission, the president of the Solomon Islands Bar Association and two members who are appointed by the governor-general upon advice from the prime minister.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

**Yes** | **No**

**Comments:**

Section 78 of the constitution states:

(1) The Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission. (2) The puisne judges shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

It should be noted that public oversight is limited. There are no public debates or a public confirmation process.

**References:**

Constitution of Solomon Islands 1978, Section 78, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

**No:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

---

### 37. Can members of the judiciary be held accountable for their actions?

67

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

**Yes** | **No**

**Comments:**

Though no law requires it, Solomon Islands follows the convention of British common law, in which judges give reasons for their decisions.

**References:**

There is nothing in the law that requires members of the judiciary to give reasons for their decisions.

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Though no law mandates it, the convention of British common law, where judges give reasons for their decisions, is followed in Solomon Islands. Judgments without reasons are likely to be appealed.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

**Comments:**

The registrar of the High Court advises that the chief justice administers this process, although it has never occurred in Solomon Islands. There is no separate agency that oversees the performance of High Court judges. This is the responsibility of the chief justice.

Section 80 of the constitution states:

(4) A judge of the High Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(5) A judge of the High Court shall be removed from office by the Governor-General if the question of the removal of that judge from office has been referred to a tribunal appointed under the next following subsection and the tribunal has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Governor-General considers that the question of removing a judge of the High Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then  
(a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members,

selected by the Governor-General from among persons who hold or have held high judicial office in some part of the Commonwealth; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether that judge should be removed under this section.

(7) If the question of removing a judge of the High Court from office has been referred to a tribunal under the preceding subsection, the Governor-General may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal advises the Governor-General that that judge should not be removed from office.

(8) Except as provided in subsection (5) of this section, the functions of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

**References:**

Constitution of Solomon Islands 1978, Section 80, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes

|

No

**Comments:**

There are no express protections. The key role of the governor-general aids political neutrality. The governor-general appoints and removes judges, in accordance with advice from the Judicial and Legal Service Commission.

Section 80 of the constitution states:

(4) A judge of the High Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(5) A judge of the High Court shall be removed from office by the Governor-General if the question of the removal of that judge from office has been referred to a tribunal appointed under the next following subsection and the tribunal has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(6) If the Governor-General considers that the question of removing a judge of the High Court from office for inability as aforesaid or for misbehaviour ought to be investigated, then

(a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Governor-General from among persons who hold or have held high judicial office in some part of the Commonwealth; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether that judge should be removed under this section.

(7) If the question of removing a judge of the High Court from office has been referred to a tribunal under the preceding subsection, the Governor-General may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the tribunal advises the Governor-General that that judge should not be removed from office.

(8) Except as provided in subsection (5) of this section, the functions of the Governor-General under this section shall be exercised by him in his own deliberate judgment.

The disciplinary entity is one person, the governor-general. No rules formally protect him/her from political interference because members of the Justice and Legal Service Commission are the chief justice, the attorney general, the chairman of the Public Service Commission, the president of the Bar Association, and two other members whom the governor-general appoints upon the advice of the prime minister.

**References:**

Constitution of Solomon Islands 1978, Sections 78 and 80, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

So far, three magistrates have been subject to criminal proceedings. A complaint has to have come from the public, practitioners or fellow judges.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

**Comments:**

Though no judges have been subject to such provisions in Solomon Islands, three magistrates have been disciplined. They have been convicted of criminal offenses. It's unclear whether they have faced disciplinary proceedings as well.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

### 38. Are there regulations governing conflicts of interest for the national-level judiciary?

57

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes

| No

**Comments:**

All leaders covered by the Leadership Code (Section 93 of the constitution), including members of the judiciary, must file financial disclosure statements every two years.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

**Yes** | **No**

**Comments:**

All leaders are covered by the Leadership Code (Section 93 of the constitution) and must file financial disclosure statements every two years.

There is some contention whether members of the judiciary are covered by the Leadership Code because this is untested through case law.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Section 5 (1), [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

**Yes** | **No**

**Comments:**

There are no legal provisions for the independent audit of financial disclosure statements under the Leadership Code.

**References:**

N/A

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes

No

**Comments:**

No laws restrict employment options of members of the judiciary after they leave the bench.

**References:**

N/A

**Yes:** A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Solomon Islands has no experience of a national-level judge working in the private sector after government service.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

**Comments:**

Judges are expected to declare their assets under the Leadership Code Commission Act as public servants. So far, the Solomon Islands judiciary has in a draft form the Code of Judicial Conduct, which is expected to regulate such matters.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

**Comments:**

Currently, judges are expected to declare their assets under the Leadership Code Commission Act as public servants, but the national-level judiciary asset disclosures have never been made available or audited. So far, the Solomon Islands judiciary has in a draft form the Code of Judicial Conduct, which is expected to require audits.

After leaving the bench, judges do not take positions that are sensitive to influencing former colleagues or are lobbying in nature. There is no timing for when judges can be employed by the private sector.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

6

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes

No

**Comments:**

There are no laws that allow public access to financial disclosure statements under the Leadership Code.

**References:**

N/A

**Yes:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100

75

50

25

0

**Comments:**

Citizens cannot gain access to judicial asset disclosure records, let alone within a reasonable time period. Disclosures are held within the Leadership Code Commission.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can never access judicial asset disclosure records, let alone at a reasonable cost. Disclosures are held within the Leadership Code Commission.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Judicial asset disclosure records are unavailable to the citizenry, so it is impossible to assess their quality.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

### 3.4. Budget Process Oversight & Transparency

#### 40. Can the legislature provide input to the national budget?

67

40a. In law, the legislature can amend the budget.

Yes

| No

##### Comments:

There are constitutional restrictions. Section 60 (a) of the constitution states that Parliament is not entitled to "proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund or other funds of Solomon Islands, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Solomon Islands."

Furthermore, the Public Finance and Audit Act, Cap 120, Laws of the Solomon Islands, 1996 Consolidation, Section 6 (1) states, "The Minister shall so supervise the finances of the Government as to ensure that a full account is made to Parliament and for such purpose shall, subject to the provisions of this Act, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the Government."

##### References:

Constitution of Solomon Islands, 1978, Section 60 (a).

Public Finance and Audit Act, Cap 120, Laws of the Solomon Islands, 1996 Consolidation, Section 6 (1).

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**Comments:**

Significant expenditures require legislative approval. For example, in December 2011, Parliament approved more than SI\$141 million (US\$17 million) for an additional supplementary budget for various development budgets.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

"PAC to Probe Govt Spending Starting Tomorrow," Mike Puia, Island Sun, Sept. 6, 2012, [www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79)

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

National Parliament website, Joy Rikimae, "Report on the 2011 Supplementary Appropriation Bill 2011 Tabled in Parliament," Dec. 8, 2011, [www.parliament.gov.sb/index.php?q=node/605](http://www.parliament.gov.sb/index.php?q=node/605)

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The legislature has insufficient capacity to monitor the budget process or provide input. Most legislators do not know how to contribute to budget debates.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

#### 41. Can citizens access the national budgetary process?

58

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**Comments:**

The national budget process is covered through local broadcasting corporations, such as TV news, and other media.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

"PAC to Probe Govt Spending Starting Tomorrow," Mike Puia, Island Sun, Sept. 6, 2012, [www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79)

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens and nongovernmental organizations have not contributed to the budget.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

"PAC to Probe Govt Spending Starting Tomorrow," Mike Puia, Island Sun, Sept. 6, 2012, [www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=5548:pac-to-probe-govt-spending-starting-tomorrow&catid=36:latest-news&Itemid=79)

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can get access to detailed budgets through the websites of the ministries or Parliament.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.. Edward Limoni, Assistant Deputy Commissioner of Tax, Inland Revenue, Interview on 10 September 2012,

**100:** Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

---

## 42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes

|

No

**Comments:**

The Standing Orders of the National Parliament of Solomon Islands, Section 69, establishes the Public Accounts Committee as a Standing Committee of Parliament.

**References:**

Constitution of Solomon Islands 1978, Sections 69 and 69 (a), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/) and [www.paclii.org/sb/legis/consol\\_act/c1978396/](http://www.paclii.org/sb/legis/consol_act/c1978396/)

**Yes:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**No:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

---

## 43. Is the legislative committee overseeing the expenditure of public funds effective?

42

43a. In practice, department heads regularly submit reports to this committee.

100

|

50

|

25

|

0

**Comments:**

The oversight committee only receives reports from the heads of ministries when the committee calls for a meeting.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

The Public Accounts Committee represents both the opposition and the government backbenches.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

This committee does not investigate.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

---

Category 4. Public Administration and Professionalism

---

4.1. Civil Service: Conflicts of Interest Safeguards and Political Independence

---

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

**Yes** | **No**

**Comments:**

Chapter XIII of the Constitution of Solomon Islands 1978 establishes the independent Public Service Commission. Further details on public sector recruitment and management are covered by the Public Service Commission Regulations 1998 and the Public Service General Orders.

**References:**

Constitution of Solomon Islands 1978, Chapter XIII, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Public Service Commission Regulations 1998 and the Public Service General Orders, [www.mps.gov.sb/documents](http://www.mps.gov.sb/documents)

**Yes:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**No:** A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

**Yes** | **No**

**Comments:**

Chapter XIII of the Constitution of Solomon Islands 1978 establishes the independent Public Service Commission. The power to hire and fire public servants is vested in the commission (Section 116 of the constitution). Further details on public sector recruitment and management are covered by the Public Service Commission Regulations of 1998 and the Public Service General Orders.

Section 22 of commission regulations requires all appointments to be made on merit.

**References:**

Constitution of Solomon Islands 1978, Chapter XIII, Section 116, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Public Service Commission Regulations 1998 and Public Service General Orders, Section 22, [www.mps.gov.sb/documents](http://www.mps.gov.sb/documents)

**Yes:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**No:** A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes

| No

**Comments:**

By law, one may appeal to the Public Service Commission. Further avenues for redress are the ombudsman, who can only make recommendations, and the civil courts.

**References:**

Public Service Commission Regulations, Sections 14 to 16, [www.mps.gov.sb/documents](http://www.mps.gov.sb/documents)

**Yes:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes

| No

**Comments:**

No law forbids a civil servant convicted of corruption from future government employment.

**References:**

N/A

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

---

## 45. Is the law governing the administration and civil service effective?

44

45a. In practice, civil servants are protected from political interference.

100

| 75

| 50

| 25

| 0

**Comments:**

The public service has suffered a long-term decline in professionalism and independence, for which there is no single cause. Ministers are involved in nontransparent decisions about individual resource allocation within their ministries, and public servants are part of this culture. The looseness that emanates from ministerial practice allows public servants to direct public resources to their private networks, which include family and business relationships. There are many competent and professional public servants, but they are not a part of the dominant culture.

**References:**

"Foreign Affairs PS Fired," Douglas Marau, Solomon Star News, Aug. 4, 2011, [www.solomonstarnews.com/news/national/11616-foreign-affairs-ps-fired](http://www.solomonstarnews.com/news/national/11616-foreign-affairs-ps-fired)

"Government Releases Final PSs' Appointment List," Solomon Star, March 31, 2012, [www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list%20accessed%20November%202012](http://www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list%20accessed%20November%202012)

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

**Comments:**

Appointment to the public service, despite rules to the contrary, is largely influenced by factors such as family and ethnic relationships, and/or political relationships. This is no longer confined to senior appointments and encompasses graduate and other lower-level appointments. This is not absolute, and some professional criteria still exist. Though a party system formally exists in Solomon Islands, its influence is virtually nil. Evaluations of performance either do not occur or are ineffective. A rules framework exists for performance management but goes unimplemented.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

"Nepotism Rife in Government Ministries: Philip," Elliot Dawea, Solomon Star, Nov. 27, 2012,  
[www.solomonstarnews.com/news/national/16568-nepotism-ripe-in-government-ministries-philip](http://www.solomonstarnews.com/news/national/16568-nepotism-ripe-in-government-ministries-philip)-  
accessed Nov. 27, 2012

"Government Releases Final PSs' Appointment List," Eddie Osifelo, Solomon Star, March 31, 2012,  
[www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list](http://www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list)  
accessed Nov. 24, 2012

"Gov't Appoints New Lands Commissioner," Douglas Marau, Solomon Star, Aug. 5, 2011,  
[www.solomonstarnews.com/news/national/11651-govt-appoints-new-lands-commissioner](http://www.solomonstarnews.com/news/national/11651-govt-appoints-new-lands-commissioner)  
accessed Nov. 24, 2012

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

**Comments:**

Nepotism, cronyism and patronage are common in hiring, firing and promoting public servants, but they are not commonly accepted. Most public servants would say they reject such principles, even though they dominate the public service. This is not absolute, and there is a minority culture of professionalism.

Those in senior positions such as permanent secretaries can also interfere politically in civil service operations.

**References:**

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

"Nepotism Rife in Government Ministries: Philip," Elliot Dawea, Solomon Star, Nov. 27, 2012,  
[www.solomonstarnews.com/news/national/16568-nepotism-ripe-in-government-ministries-philip](http://www.solomonstarnews.com/news/national/16568-nepotism-ripe-in-government-ministries-philip)-  
accessed Nov. 27, 2012

"Government Releases Final PSs' Appointment List," Eddie Osifelo, Solomon Star, March 31, 2012,  
[www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list](http://www.solomonstarnews.com/news/national/14164-government-releases-final-pss-appointment-list)  
accessed Nov. 24, 2012

"Gov't Appoints New Lands Commissioner," Douglas Marau, Solomon Star, Aug. 5, 2011,  
[www.solomonstarnews.com/news/national/11651-govt-appoints-new-lands-commissioner](http://www.solomonstarnews.com/news/national/11651-govt-appoints-new-lands-commissioner)  
accessed Nov. 24, 2012

"Foreign Affairs PS Fired," Douglas Marau, Solomon Star, Aug. 4, 2011, [www.solomonstarnews.com/news/national/11616-foreign-affairs-ps-fired](http://www.solomonstarnews.com/news/national/11616-foreign-affairs-ps-fired)

"Gov't Steps Up Discipline," Jennifer Kakai, Solomon Star, Aug. 3, 2011,  
[www.solomonstarnews.com/news/national/11595-govt-steps-up-discipline](http://www.solomonstarnews.com/news/national/11595-govt-steps-up-discipline)  
accessed Nov. 24, 2012

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

**Comments:**

Political positions are sometimes without job descriptions.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

**Comments:**

No bonuses are given in the public service.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | **25** | 0

**Comments:**

Only the number of vacancies are advertised, not filled positions.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | **25** | 0

**Comments:**

The Public Service Commission is designed to be the independent redress mechanism for the public service. In practice, it is weak. The commission does not perform its designated role to ensure integrity in public-service human resources management, though it operates with a budget, staff and donor-funded technical advisers. The General Orders that govern the public service were drafted in 1985, with piecemeal amendments since. The General Orders sometimes are inconsistent with other components of the framework for human resources management. There is a confusing overlap between the Public Service Commission and the Public Service Department. These loopholes are used to undermine public service integrity by individuals within the system who prefer to maintain the dysfunctional status quo.

**References:**

Ruth Liloqlua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

United Nations Development Program, "Accountability Institutions: Review of Solomon Islands," page 13, 2010.

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.



**Comments:**

Salaries are paid on time.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

No formal system forbids a public servant convicted of corruption to engage in future government employment. The Public Service Commission does have discretion to consider a person's background for government employment. In practice, very few convictions for criminal corruption (that were upheld on appeal) have occurred in Solomon Islands. There is no record that the few individuals convicted of official corruption were rehired as public servants.

No widespread community sentiment seems to exist that individuals convicted of serious crimes should not be in public office. Sir Allan Kemakeza, the current speaker of Parliament and former prime minister, was convicted of demanding with menace, intimidation and simple larceny in 2008. Jimmy Lusibaea was convicted of robbery, unlawful wounding and assaulting a police officer in 2010, from events that took place in 2000, and was elected as a member of Parliament for North Malaita in 2010.

**References:**

Regina v. Kemakeza [2008] SBHC 41; HCSI-CRC 467 of 2007 (Sept. 3, 2008),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2008/41.html?query=kemakeza](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2008/41.html?query=kemakeza)

Regina v. Lusibaea [2010] SBHC 80; HCSI-CRC 291 of 2007 (Nov. 30, 2010),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2010/80.html?query=lusibaea](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2010/80.html?query=lusibaea)

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

46a. In law, senior members of the civil service are required to file an asset disclosure form.

**Yes** | **No**

**Comments:**

The Leadership Code (Further Provisions) Act [Cap 86] requires that all public officials, including leaders, submit financial disclosure statements to the Leadership Code Commission every two years (see Part II).

**References:**

The Leadership Code (Further Provisions) Act [Cap 86], Part II, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

**Yes** | **No**

**Comments:**

The Constitution of Solomon Islands 1978, Chapter VIII, Leadership Code, Section 94 makes clear that conflicts of interest amount to misconduct in office. The code covers all public officers.

The Leadership Code (Further Provisions) Act [Cap 86] affirms that conflicts of interest constitute misconduct in office.

**References:**

Constitution of Solomon Islands 1978, Chapter VIII, Leadership Code, Section 94, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

The Leadership Code (Further Provisions) Act [Cap 86], [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**No:** A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes

No

**Comments:**

No laws restrict the employment of civil servants after they leave government.

**References:**

N/A

**Yes:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes

No

**Comments:**

The Leadership Code (Further Provisions) Act [Cap 86], Part II, Disclosure of Financial Assets requires that all public officers disclose the receipt of gifts (but not hospitality) in statements to the Leadership Code Commission every two years.

In practice, the commission only seeks to regulate those in senior positions.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part II, Disclosure of Financial Assets,  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**No:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes

No

**Comments:**

No laws require the auditing of financial disclosures made to the Leadership Code Commission, and the commission does not audit the statements.

**References:**  
N/A

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

No rules prohibit employment in the private sector after departure from the public service. Government employees can take private sector jobs as soon as they leave the civil service. This is currently the practice. There is no "cooling off" period or monitoring of such activities.

Hudson Wakio, who formerly worked for the Ministry of Fisheries, for example, is involved in government procurement activities, such as solar and computer supplies. Now he is donating assistance to the government. He made a donation to the National Referral Hospital's children ward in Honiara.

Also, note former members of Parliament Michael Maina and Peter Boyers ([www.parliament.gov.sb/index.php?q=node/149](http://www.parliament.gov.sb/index.php?q=node/149)).

**References:**

Ruth Liloqlula, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

"Dr. Sikua: Taskforce Must Be Investigated for Changed Position," Solomon Star, June 19, 2012,  
[www.solomonstarnews.com/news/national/15135-dr-sikua-taskforce-must-be-investigated-for-changed-position](http://www.solomonstarnews.com/news/national/15135-dr-sikua-taskforce-must-be-investigated-for-changed-position)

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent

or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Regulations governing gifts and hospitality to public servants are found in the General Orders, and the Leadership Code (governing public leaders). These rules are not enforced, or widely complied with. There is no gift or hospitality registry available for public access, or even evidence that one is kept. It is widely known among ordinary citizens that public service administration is expedited by the provision of gifts, hospitality and cash, as shown by the sources listed above.

**References:**

"PS of Lands," Solomon Star, letter to the editor, Nov. 22, 2012,  
[www.solomonstarnews.com/viewpoint/letters-to-the-editor/16512-ps-of-lands](http://www.solomonstarnews.com/viewpoint/letters-to-the-editor/16512-ps-of-lands)

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

"SIEA — Beyond Power Outage," Solomon Star, June 11, 2012,  
[www.solomonstarnews.com/viewpoint/private-view/15031-siea-beyond-power-outrage](http://www.solomonstarnews.com/viewpoint/private-view/15031-siea-beyond-power-outrage)

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

**Comments:**

The dominant practice in the public service is to take full advantage of public office to benefit one's private interests. Conflicts of interest in decision making are rife. When a conflict of interest occurs, punitive action rarely follows. Some public sector managers expend great effort to uphold the public interest, but they are in the minority.

**References:**

"PS of Lands," Solomon Star, letter to the editor, Nov. 22, 2012,  
[www.solomonstarnews.com/viewpoint/letters-to-the-editor/16512-ps-of-lands](http://www.solomonstarnews.com/viewpoint/letters-to-the-editor/16512-ps-of-lands)

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

"Step Down," Solomon Star, Dec. 2, 2011,  
[www.solomonstarnews.com/news/national/12972-step-down](http://www.solomonstarnews.com/news/national/12972-step-down)  
 accessed Nov. 27, 2012

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

**Comments:**

Assets never have been audited.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd. and former candidate in the Central Guadalcanal Constituency, interviewed Sept. 4, 2012.

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

#### 47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes

|

No

**Comments:**

Section 5 (6) of the Leadership Code (Further Provisions) Act [Cap 86] states that financial disclosure statements will not be revealed to any person, except in extremely limited circumstances.

**References:**

Section 5 (6) of the Leadership Code (Further Provisions) Act [Cap 86], [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**No:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100

|

75

|

50

|

25

|

0

**Comments:**

Citizens do not have access to the financial disclosure statements.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100      |      75      |      50      |      25      |      0

**Comments:**

Such records are not available.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

Such records are not available.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

## 4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**Comments:**

There are no particular legal protections for whistle-blowers in the public sector.

**References:**

N/A

**Yes:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

Public servants have a general fear about reporting corruption because of potential job loss or other negative consequences.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

George Herming, director of communications office, Office of the Prime Minister, contact with on Aug. 11, 2011.

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**Comments:**

There are no particular legal protections for whistle-blowers in the private sector.

**References:**

N/A

**Yes:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

No whistle-blower laws have been enacted to protect employees in the public or private sector. Employees who publicly expose corruption or abuse of power in the workplace can expect severe negative consequences, not the least of which will be loss of employment.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

---

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes

|

No

**Comments:**

Corruption can be reported to the ombudsman, the Leadership Code Commission or the police.

Strictly speaking, the police are the only ones with a mandate to address criminal corruption. The ombudsman can only make recommendations to Parliament (and has not filed a report since 2008), and the Leadership Code Commission is not an anti-corruption agency (it is a self-declared “misconduct” agency) and has no legal capacity to dismiss anyone from office. It has the power to issue fines up to SI\$5,000 (US\$707).

**References:**

Constitution of Solomon Islands, 1978, Chapter IV (Governor-General), Chapter XI (Ombudsman), Chapter XIII (Leadership Code), [www.wipo.int/wipolex/en/text.jsp?file\\_id=198229](http://www.wipo.int/wipolex/en/text.jsp?file_id=198229)

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

---

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

31

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.



**Comments:**

The Internal Audit Unit has a professional staff. The department currently is staffed by a director (who is a diploma graduate), a senior auditor and four assistant auditors, all diploma graduates, with no bachelor of arts qualification. The staff of six is insufficient to investigate public corruption. It is not an independent body because the Director of the organisation is appointed by the Permanent Secretary of the Ministry of Finance & Treasury and his officers. The Unit is also a Department of the Ministry of Finance & Treasury. This implies that the Unit's audit framework must be approved by the Permanent Secretary including the decision to report any findings in its annual report. In contrast, the Auditor General is appointed by the public Service Commission and report to the National Parliament of his audit findings.

The Unit's link is: <http://www.mof.gov.sb/AboutUs/internalaudit2.aspx>

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.



**Comments:**

Given ever-present budget constraints, funding has fluctuated within a normal range for the units that deal with public sector corruption. In 2012, the Ministry of Finance received SI\$400,000 (SI\$500,000 in 2011). In 2012 the Ministry of Health and Medical Services Internal Audit received SI\$300,000 (SI\$317,000 in 2011). In 2012 the Police Inspectorate received SI\$221,000 (SI\$300,000m in 2011).

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The internal reporting mechanism for public sector corruption did not act on complaints within a reasonable amount of time in the study period. For example, an announcement from the permanent secretary indicated no complaint cases were scrutinized. This is also confirmed by the "People Survey 2011."

The Internal Audit Unit can take months or provide no response at all to requests needing to be investigated. The department has no mandate to respond to public complaints.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Regional Assistance Mission to Solomon Islands, "People's Survey 2011," published in February 2012.

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

**Comments:**

The Office of the Audit General sometimes initiates its own investigation. The direction comes from the politically appointed staff.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

46

### 4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

#### 51. Is the public procurement process effective?

55

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes

No

**Comments:**

Chapter VIII of the Constitution is the Leadership Code, which applies to all public officials. It defines conflict of interest and states that if anyone covered by the code is found guilty of conflict of interest, that will be considered misconduct in office. Public procurement officials are subject to the code, but there are no specific public procurement regulations.

**References:**

Chapter VIII of the Constitution (the Leadership Code), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**No:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes

No

**Comments:**

There is no mandatory professional training for public procurement officials.

**References:**

N/A

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The government centralises its procurement under the Ministry of Finance. So from interview, the interviewees confirmed that conflicts of interests were not enforced. They also confirmed that if such regulation was complied, the results would be published in a press release in the media or the Ministry's website. The website which is linked below was browsed but with no press release of such.

<http://www.mof.gov.sb/Homepage.aspx>

Conflict-of-interest regulations for public procurement officials are not adhered to. The website of the Ministry of Finance did not have any press release.

**References:**

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | No

**Comments:**

Part II of the Leadership Code (Further Provisions) Act [Cap 86] states that all leaders (including public officers) must submit financial disclosure statements every two years.

The Leadership Code applies to all public officers (Section 93 of the Constitution of Solomon Islands 1978).

**References:**

Part II of the Leadership Code (Further Provisions) Act [Cap 86], [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Section 93 of the Constitution of Solomon Islands 1978, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**No:** A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

Yes | No

**Comments:**

The Financial Instructions, authorized in Section 6 (2) of the Public Finance and Audit Act 1978, give guidance on accounting matters, whether to direct officers of the government, contract officers or those seconded from other organizations within the country or from overseas. The new Financial Instructions became effective July 1, 2010.

Major procurement is covered by Section 7 of the Financial Instructions. It states that a restricted tender or direct procurement is allowed in certain circumstances. A procurement manual referred to in the Financial Instructions but not yet a reality is expected

to provide further details.

**References:**

Public Finance and Audit Act 1978, Section 6 (2), [www.paclii.org/sb/legis/consol\\_act/pfaaa189/](http://www.paclii.org/sb/legis/consol_act/pfaaa189/)

Solomon Islands Government Financial Instructions, Section 7, [www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx](http://www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx)

**Yes:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**No:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

**Yes** | **No**

**Comments:**

The Financial Instructions, authorized in Section 6 (2) of the Public Finance and Audit Act 1978, give guidance on accounting matters, whether to direct officers of the government, contract officers or those seconded from other organizations within the country or from overseas. The new Financial Instructions became effective July 1, 2010.

Major procurement is covered by Section 7 of the Financial Instructions. It states that a restricted tender or direct procurement is allowed in certain circumstances. A procurement manual referred to in the Financial Instructions but not yet a reality is expected to provide further details.

**References:**

Section 7 of the Solomon Islands Government Financial Instructions, July 1, 2010,  
[www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx](http://www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx)

Section 6 (2) of the Public Finance and Audit Act 1978, [www.paclii.org/sb/legis/consol\\_act/pfaaa189/](http://www.paclii.org/sb/legis/consol_act/pfaaa189/)

**Yes:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**No:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

**Yes** | **No**

**Comments:**

There is no formal appeal process in procurement regulations. However, administrative acts by the state under procurement regulations can be considered in the courts.

**References:**

N/A

**Yes:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**No:** A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes

|

No

**Comments:**

No law exempts public procurement decisions from being challenged in Solomon Islands courts.

Section 77 of the constitution states:

(1) There shall be a High Court for Solomon Islands, which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other jurisdiction and powers as may be conferred on it by this Constitution or by Parliament.

**References:**

Section 77 of the constitution, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**No:** A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes

|

No

**Comments:**

In law, no such prohibition exists.

**References:**

N/A

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

**No:** A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

Though there is system in place, no company has been caught and put under monitoring.

**References:**

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

## 52. Can citizens access the public procurement process?

58

52a. In law, citizens can access public procurement regulations.

Yes | No

**Comments:**

Section 7 of the Financial Instructions, which refers to procurement, can be found online. But a procurement manual, as required by the Financial Instructions, has yet to be developed.

**References:**

Section 7 of the Financial Instructions, [www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx](http://www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx)

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes

|

No

**Comments:**

Section 7 of the Financial Instructions requires disclosure of successful tenders.

**References:**

Section 7 of the Financial Instructions, [www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx](http://www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx) and [www.mof.gov.sb/ReportsNew/ProcurementTenders.aspx](http://www.mof.gov.sb/ReportsNew/ProcurementTenders.aspx)

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100

|

75

|

50

|

25

|

0

**Comments:**

Procurement is covered by the Public Finance and Audit Act, and the Financial Instructions. Both are available online, as well as the results of tenders that go through the Tenders Board (SBD500,000 +). A procurement manual may be available in 2013, but currently there is still some confusion about the procurement process. This is being taken advantage of by many people, and informed opinion is that small-scale procurement fraud may be widespread. Therefore, even though procurement rules and records are available online, they do not form a clear and simple procurement process that is widely understood (and followed).

**References:**

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

Procurement is covered by the Public Finance and Audit Act, and the Financial Instructions. Both are available online, as well as the results of tenders that go through the Tenders Board (SBD500,000 +). A procurement manual may be available in 2013, but currently there is still some confusion about the procurement process. This is being taken advantage of by many people, and informed opinion is that small-scale procurement fraud may be widespread. Therefore, even though procurement rules and records are available online, they do not form a clear and simple procurement process that is widely understood (and followed).

**References:**

Public Finance and Audit Act [Cap 120],  
[www.paclii.org/sb/legis/consol\\_act/pfaaa189/](http://www.paclii.org/sb/legis/consol_act/pfaaa189/)

Financial Instructions,  
[www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx](http://www.mof.gov.sb/ReportsNew/FinancialInstructions.aspx)

Procurement summary,  
[www.mof.gov.sb/ReportsNew/ProcurementTenders.aspx](http://www.mof.gov.sb/ReportsNew/ProcurementTenders.aspx)

Edward Ronia, auditor general, interviewed July 31, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, through advertisements by government ministries and in the media.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

The general public never has access to them.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

---

#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

---

##### 53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes

|  
No

**Comments:**

There are no specific laws excluding anyone from competing for privatized state assets.

**References:**

N/A

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes

| No

**Comments:**

The Constitution of Solomon Islands and the Leadership Code contain provisions regarding conflict of interest for government officials. There are no specific laws on conflicts of interest regarding privatization.

**References:**

Constitution of Solomon Islands 1978, Section 94, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Leadership Code (Further Provisions) Act [Cap 86], Sections 12 to 17, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | **25** | 0

**Comments:**

Conflict of Interest regulations exist in the Leadership Code and General Orders. Large-scale privatization has not occurred in Solomon Islands, except for the recent privatization of Sasape Shipyard and Home Finance Ltd. No evidence indicates that government officials involved with that process have benefited privately. However, medium- and small-scale privatization occurs regularly with government assets such as land, houses and vehicles. Reports such as those listed above suggest that conflict of interest in disposal of these assets is rife and that many public servants and politicians benefit illicitly from their sale.

**References:**

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

#### 54. Can citizens access the terms and conditions of privatization bids?

20

54a. In law, citizens can access privatization regulations.

Yes | **No**

**Comments:**

There are no privatization-specific laws.

**References:**

N/A

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Privatizations are effectively advertised.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012.

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | **No**

**Comments:**

No particular laws govern the privatization process.

**References:**

N/A

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**Comments:**

There are no privatization regulations.

**References:**

Edward Ronia, auditor general, interviewed July 31, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no privatization regulations.

**References:**

Edward Ronia, auditor general, interviewed July 31, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

## Category 5. Government Oversight and Controls

### 5.1. <sup>76</sup>National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes |  No

**Comments:**

The ombudsman is a constitutional office that reports to Parliament about public-sector complaints.

**References:**

Constitution of Solomon Islands 1978, Chapter IX, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**No:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

### 56. Is the national ombudsman effective?

52

56a. In law, the ombudsman is protected from political interference.

Yes |  No

**Comments:**

The ombudsman is appointed by the governor-general, upon the advice of a committee consisting of the speaker of Parliament, the chairman of the Public Service Commission and the chairman of the Judicial and Legal Service Commission.

The ombudsman may be removed from office only if he is unable to discharge the functions of the office (whether arising from infirmity of body or mind or any other cause) or if he misbehaves. The removal must follow the procedure for removing a judge from the High Court.

**References:**

Constitution of Solomon Islands 1978, Chapter IX, Section 96 (6), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman has been in the office since 2006, and his contract was renewed in 2011 for a second term. No political interference has marked either of his terms in office.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

**Comments:**

The ombudsman has been in the office since 2006, and his contract was renewed in 2011 for a second term. No political interference has marked either of his terms in office.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

**Comments:**

The ombudsman has recruited competent university graduates. Currently, 15 staff positions are funded, but this number is insufficient to do effective investigations.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Recruitment for the ombudsman's office is properly advertised in the local media. In Solomon Islands, political or other influences can be easily discerned when an office is fully staffed with employees from a particular island or village. This is not the case with the ombudsman. The ombudsman's recruitment practices are free from political influence.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman's office shares SI\$1.15 million from the 2012 Development budget with the Auditor General's Office and the Leadership Code Commission. The three offices use that funding for joint capacity development, payment of utility bills and trainings programmes conducted as joint commitments. This money comes from the governments of Australian and New Zealand. In essence they did not split the funding. The reason of the donor intervention was the historical poor funding commitment by the Solomon Islands Government. These are not automatically recurrent as they depend on the aid commitments of the donors, and so must be reapproved every year.

In the Recurrent 2012 budget, the ombudsman's office received SI\$1.8 million for staff payroll and office operations.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Solomon Islands National Budget, 2012-13 financial period, Ministry of Finance, Honiara.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman and the Leadership Code Commission rarely make their reports public. They provide them only for Parliament. When the reports are released, they do not give details of corruption hearings or reasons for decisions.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Leadership Code Commission, Chairman Emmanuel Kouhota, request for a copy In the case Of Namson Tran and others, June 25, 2012.

Pacific Islands Legal Information Institute, Solomon Islands Ombudsman's Reports.  
[www.paclii.org/sb/cases/SBOM/](http://www.paclii.org/sb/cases/SBOM/)  
accessed Nov. 26, 2012

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman has the power to initiate investigations, and does so, but because the ombudsman's public reporting is so scant, it is difficult to determine how much is done. It may be that many investigations are started, but not concluded properly. There appears to be limited cooperation with other agencies. Annual reports of the ombudsman to Parliament are some years in arrears.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

"PM Under Scrutiny: Likely to Face Misconduct Claims," Douglas Marau, Solomon Star, Aug. 17, 2011,  
[www.solomonstarnews.com/news/national/11787-pm-under-scrutiny-likely-to-face-misconduct-claims](http://www.solomonstarnews.com/news/national/11787-pm-under-scrutiny-likely-to-face-misconduct-claims)

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Job demotion should be initiated to better punish culprits, but the office has not been always been effective.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The Leadership Code Commission and the ombudsman did not publish their reports in the media or place them before Parliament for consideration in the period June 2011 to June 2012.

In the past, when such reports were publicized, the government did not give attention to the requests for sufficient capacity, such as financial and human resources.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman often takes longer than three months to resolve simple complaints. Serious abuses are not investigated with urgency. Complaints often go unacknowledged for more than a month.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

---

## 57. Can citizens access the reports of the ombudsman?

42

57a. In law, citizens can access reports of the ombudsman(s).

Yes

| No

**Comments:**

Section 98 of the Constitution states that the ombudsman will make an annual report and may make such additional reports to Parliament as he deems appropriate. The ombudsman may draw attention to any defects he sees in the administration or any law.

The last annual report considered in Parliament was in 2008.

**References:**

Constitution of Solomon Islands 1978, Section 98 (3), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if all ombudsman reports are publicly available.

**No:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports of the Leadership Code Commission and the ombudsman are difficult for citizens to obtain. No reports of these institutions have been made to Parliament, obtained by the public or reported by the media in the study period. Thus, it is impossible to ascertain how much it would cost citizens to obtain them. Often the government indicates that the public will never get reports from institutions dealing with corruption complaints, such as the Leadership Code Commission and ombudsman.

Such a response denies public access to the commission's investigation of the sale of a government residence to Namson Tran, a member of Parliament, at way below market value.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Leadership Code Commission, Chairman Emmanuel Kouhota, June 29, 2012, request for a copy of the decision in the case of Namson Tran.

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | **25** | 0

**Comments:**

Some citizens do not know the office exists, where it is located or how to obtain information. Reports sometimes can be delayed.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

## 5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes

|

No

**Comments:**

Section 108 of the Constitution states:

There shall be an Auditor-General whose office shall be a public office.

(2) The Auditor-General shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission.

(3) The public accounts of Solomon Islands, of all Ministries, offices, courts and authorities of the Government, of the government of Honiara city and of all provincial governments, shall be audited and reported on annually by the Auditor-General, and for that purpose the Auditor-General or any person authorized by him in that behalf shall at all times be entitled to access to all books, records, returns and other documents relating to such accounts.

**References:**

Constitution of Solomon Islands 1978, Section 108, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**No:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

---

## 59. Is the supreme audit institution effective?

84

59a. In law, the supreme audit institution is protected from political interference.

Yes

|

No

**Comments:**

The law guarantees independence through the appointment process and stated freedom from control:

(2) The Auditor-General shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission.

...  
(5) In the exercise of his functions under this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

**References:**

Constitution of Solomon Islands 1978, Section 108, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The auditor general is protected by law from dismissal for political purposes. In practice, a prime minister would spend a huge amount of political capital if he sought to dismiss the auditor general for spurious reasons. A prime minister usually finds it easier to skirt allegations than to get rid of the auditor general.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The auditor general has a staff of about 30, with 80 percent professionally qualified through tertiary studies.

**References:**

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders it ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

Audit staff members are recruited, internally trained and professionally experienced. They reflect the position of the office against bias.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Funding from donors and the state continues to support the agency.

**References:**

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The office produces several audit reports during the year, reflecting its independence in providing oversight for checks and balances. A recent press release by the audit office is referenced in the Solomon Star newspaper.

**References:**

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

"Report Gets Mixed Reaction," Solomon Star, Aug. 21, 2012,  
[www.solomonstarnews.com/news/national/15760-report-gets-mixed-reaction-](http://www.solomonstarnews.com/news/national/15760-report-gets-mixed-reaction-)

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | **25** | 0

**Comments:**

Audits issues have been recurrent. The government in most cases has not acted on the findings of the auditor general. In 2011, Transparency International Solomon Islands made follow-ups on behalf of citizens when the government did not address some core audit issues.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Interview with staff at Transparency International, Solomon Islands.

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

**Comments:**

The audit office initiates its own investigations when necessary. An example is attached. It shows an audit of the management of the government's motor vehicle fleet.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Edward Ronia, auditor general, interviewed July 31, 2012.

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 60. Can citizens access reports of the supreme audit institution?

75

60a. In law, citizens can access reports of the audit agency.

Yes | No

**Comments:**

Section 108 (4) of the 1978 constitution states that "The Auditor-General shall submit his reports to the Speaker, who shall cause them to be laid before Parliament; and he shall also send a copy of each report to the Minister of Finance and the Minister concerned."

This law has been interpreted by some speakers as not mandatory, and some reports are yet to be considered after more than one year.

**References:**

Constitution of Solomon Islands 1978, Section 108 (4), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Because there are no publication copies, citizens can get "soft" copies. This is a hindrance for those who lack technological know-how, access to computers or access to the Internet.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports can be issued at very low cost or no cost if done electronically. There are also summaries in the media.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

**86**

### 5.3. Taxes and Customs: Fairness and Capacity

#### 61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes

| No

##### Comments:

The commissioner of Inland Revenue is mandated and authorized to collect taxes.

##### References:

Department of Inland Revenue, Income Tax Act (Cap 123), [www.paclii.org/sb/legis/consol\\_act/ita116/index.html#p10](http://www.paclii.org/sb/legis/consol_act/ita116/index.html#p10)

**Yes:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

#### 62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Department of Inland Revenue is financed by the government through revenue collection. The department also often receives donor assistance.

**References:**

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Regular funding is issued to the Tax Office, with technical advisers from Australia and New Zealand. The 2012 Recurrent Budget allocated SI\$19 million (SI\$16million in 2011). The 2012 Development Budget received SI\$14 million in New Zealand assistance.

**References:**

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

### 63. In practice, are tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

#### Comments:

Tax evasion occurs, particularly among individuals and in the private sector. "People's Survey 2011," by the Regional Assistance Mission to Solomon Islands, reported that only 60 percent of people paid taxes. The private sector was a target in 2011-12 for tax evasion after a high-profile case in early 2011.

#### References:

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

Noel Mamau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Tony Hou, consultant for UN-Habitat, development specialist and currently private consultant and former lecturer at Solomon Islands College of Higher Education, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Andrew Minto, tax commissioner, presentation, University of the South Pacific, Feb. 8, 2012.

"Lilo: Pay Your Tax," Jeremy Inifiri, Solomon Star, Nov. 3, 2011, [www.solomonstarnews.com/news/business/12735-lilo-pay-your-tax](http://www.solomonstarnews.com/news/business/12735-lilo-pay-your-tax)

Regional Assistance Mission to Solomon Islands, "People's Survey 2011," [www.ramsi.org/Media/docs/-People-Survey-2011-summary—FINAL-WEB-90fc70c7-e1f8-4b04-8d07-c1cbee3f30d9-0.pdf](http://www.ramsi.org/Media/docs/-People-Survey-2011-summary—FINAL-WEB-90fc70c7-e1f8-4b04-8d07-c1cbee3f30d9-0.pdf)

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

#### 64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes

|

No

**Comments:**

The Customs and Excise Division collects revenue and manages the country's borders and the movement of people and goods in and out of the country.

**References:**

Customs and Excise Act [Cap 121], [www.paclii.org/sb/legis/consol\\_act/caea199/](http://www.paclii.org/sb/legis/consol_act/caea199/)

**Yes:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

#### 65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100

|

75

|

50

|

25

|

0

**Comments:**

The Customs and Excise Division has a professional local staff and expatriates working in line positions. Because revenue collection benefits the government, the government ensures that it happens.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Walter Malau, executive officer, Transparency Solomon Islands, presentation, Customs Conference Office, Jan. 31, 2012.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The customs and excise agency receives regular annual funding, with no political interference.

For example, the 2012 Development Budget allocated more than SI\$1.17 million to the Customs and Excise Division for construction of an office in Honiara. The Customs ICT Hardware Upgrade Program received SI\$2.5 million. Also allocated was SI\$1.75 million for the acquisition of the ASYCUDA IT system to improve customs revenue collection.

The 2012 Recurrent Budget allocated SI\$8 million (\$7.7m in 2011) to the Customs and Excise office.

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Solomon Islands National Budget, 2012-13 financial period, Ministry of Finance, Honiara.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

The Customs Division favors multinational companies. For example, the division favored Gold Ridge Mining Ltd., an Australian company, when it refused to conduct a physical inspection of the company's gold exports. Malaita Ma'asina Forum, a nongovernmental organization, questioned the government about its nonadherence to customs laws. The permanent secretary of the ministry responded, indicating that physical inspections "add little value to the export process."

**References:**

Edward Limoni, assistant deputy commissioner of tax, Inland Revenue, interviewed Sept. 10, 2012, in Honiara.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

---

#### 5.4. Oversight of State-Owned Enterprises

---

---

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

**Yes**

|  
**No**

**Comments:**

The Investment Corporation of Solomon Islands Act [Cap 143] covers state equity in private companies.  
The State Owned Enterprises Act 2007 covers state-owned enterprises.

**References:**

Investment Corporation of Solomon Islands Act [Cap 143], [www.paclii.org/sb/legis/consol\\_act/icosia471/](http://www.paclii.org/sb/legis/consol_act/icosia471/)

State Owned Enterprises Act 2007, [www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf](http://www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf)

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

---

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

35

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

**Yes**

|  
**No**

**Comments:**

Section 24 of the State Owned Enterprises Act 2007 defines the roles of ministers, boards and managers and ensures that the government's directions are related to policy directions.

The Investment Corporation of Solomon Islands Act [Cap 143] establishes a board of directors.

Even though the laws provide for an "arm's length" between government and publicly owned commercial enterprises, the political connection is still strong. Politicization to some degree depends on the style of the government and the minister involved.

**References:**

Investment Corporation of Solomon Islands Act [Cap 143], Section 7, Second Schedule,  
[www.paclii.org/sb/legis/consol\\_act/icosia471/](http://www.paclii.org/sb/legis/consol_act/icosia471/)

State Owned Enterprises Act 2007, Section 24, [www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf](http://www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf)

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Within the Ministry of Finance and Treasury is a position called “director” under the Economic Reform Unit. Currently, the office is headed by an acting director, two local staff members and one expatriate as a technical adviser. The staff deals with the oversight of state-owned enterprises.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

There is an agency, and the accountable minister is the minister of finance. In the 2012 Recurrent Budget, SI\$636,000 was allocated for staffing and office support; SI\$2.6 million was allocated in Asian Development Bank assistance in the national Development Budget of 2012.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

Parliament, State Owned Enterprises Act of 2007, [www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf](http://www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf)

**100:** The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

No investigations have been noted.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Department (the Economic Reform Unit) does not impose penalties on offenders. Their main core function is to commence restructure of State-Owned Enterprises and does not oversee offenders.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

---

## 69. Can citizens access the financial records of state-owned companies?

60

69a. In law, citizens can access the financial records of state-owned companies.

Yes

| No

**Comments:**

Section 17 of the State Owned Enterprises (SOE) Act 2007 requires that all SOE annual reports, including financial statements, be presented in Parliament.

Section 5 (6) of the Investment Corporation of Solomon Islands Act [Cap 143], Third Schedule, requires that all general meetings are made public.

**References:**

The State Owned Enterprises Act 2007, Section 17, [www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf](http://www.parliament.gov.sb/files/legislation/StateOwnedEnterprisesAct2007.pdf)

Investment Corporation of Solomon Islands Act [Cap 143], Third Schedule, Section 5 (6),  
[www.paclii.org/sb/legis/consol\\_act/icosia471/](http://www.paclii.org/sb/legis/consol_act/icosia471/)

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

Currently, agencies (Water and Electricity authorities) supported by donors such as the World Bank have their accounts up-to-date and audited. Others such as Postal, Broadcaster and Visitors agencies have had their accounts delayed.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

**0:** Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, they are in compliance with the International Financial Reporting Standards.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Sometimes it is too difficult for people to get access to the reports in relevant offices (audit office) or company offices.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | **25** | 0

**Comments:**

This is not applicable because most of the accounts' audit reports have been in short supply.

**References:**

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Joe Au Ramosaea, head of the Assurance Branch, Office of the Auditor General, interviewed Sept. 18, 2012, in Buala, Isabel Province, Honiara.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

65

## 5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

70a. In law, anyone may apply for a business license.

**Yes** | **No**

**Comments:**

No laws exclude any particular group of people from applying for a business license from the Honiara City Council or any provincial government.

**References:**

N/A

**Yes:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**No:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

**Yes** | **No**

**Comments:**

The formal process for appealing a rejected license application is through the civil courts. Applications are rarely rejected, but suits are brought by applicants when they consider licence fees excessive.

Section 77 (1) of the constitution provides for the High Court to hear all civil and criminal proceedings:

"There shall be a High Court for Solomon Islands which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other jurisdiction and powers as may be conferred on it by this Constitution or by Parliament."

**References:**

Y Sato & Co. Ltd. v. Honiara Town Council [1998] SBHC 31; HC-CC 048 of 1997 & 055 of 1997 (June 16, 1998), [www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/1998/31.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/1998/31.html?query=)

Premier of Isabel Province v. Earthmovers Group of Companies [2005] SBCA 17; [2005] 2 LRC 439 (Aug. 4, 2005), [www.paclii.org/cgi-bin/disp.pl/sb/cases/SBCA/2005/17.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBCA/2005/17.html?query=)

Constitution, Section 77 (1), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process for appealing a rejected license.

**No:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on the new available forms on the Internet by the "Company Haus," one can electronically send in a completed form for assessment. A response can be quicker than it previously was, with a turn-around time of one week.

**References:**

Tony Hou, private consultant, town and country planning; private business, interviewed Sept. 10, 2012, in Honiara.

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

World Bank, "Doing Business 2011, Solomon Islands."

Company Haus, Solomon Islands, [www.companyhaus.gov.sb/](http://www.companyhaus.gov.sb/)

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can obtain any business license at a reasonable cost of approximately SI\$200 (US\$25) per application.

**References:**

Tony Hou, private consultant, town and country planning; private business, interviewed Sept. 10, 2012, in Honiara.

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

|

No

**Comments:**

The requirements are publicly accessible and transparent, but user-friendly explanations of the laws are unavailable.

**References:**

Labor Act [Cap 73], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/la84/](http://www.paclii.org/sb/legis/consol_act/la84/)

Environmental Health Act [Cap 99], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/eha218/](http://www.paclii.org/sb/legis/consol_act/eha218/)

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes

| No

**Comments:**

User-friendly explanation of the laws are unavailable.

**References:**

Labor Act [Cap 73], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/la84/](http://www.paclii.org/sb/legis/consol_act/la84/)

Environmental Health Act [Cap 99], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/eha218/](http://www.paclii.org/sb/legis/consol_act/eha218/)

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes

| No

**Comments:**

User-friendly explanation of the laws are unavailable.

**References:**

Labor Act [Cap 73], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/la84/](http://www.paclii.org/sb/legis/consol_act/la84/)

Environmental Health Act [Cap 99], 1996 edition,  
[www.paclii.org/sb/legis/consol\\_act/eha218/](http://www.paclii.org/sb/legis/consol_act/eha218/)

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

**Comments:**

Business inspections by government officials to ensure public health standards are being done and are carried out in a uniform and evenhanded manner. In a recent example, the municipal health inspector took on the prime minister and Cabinet ministers. Several media outlets covered how claims of bribery impinged on the issue, and the government officer did not change his position.

But inspections by government officials to ensure that regulatory standards are met generally occur haphazardly. Most officials would prefer to do their jobs properly but are undermined by interference from politicians and senior managers. Resources chronically are in short supply. There are also issues with the technical capacity of some public officials to undertake specific regulatory functions like health and building inspections. Health inspections are carried out in Honiara sometimes.

**References:**

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

"HCC Chief Health Inspector Commends Public Support," Daniel Namosuaia, Solomon Star, Aug. 27, 2011,  
[www.solomonstarnews.com/news/national/11905-hcc-chief-health-inspector-commends-public-support](http://www.solomonstarnews.com/news/national/11905-hcc-chief-health-inspector-commends-public-support)  
accessed Nov. 26, 2012

"Food Outlets to Be Inspected," Daniel Namosuaia, Solomon Star, Oct. 24, 2011,  
[www.solomonstarnews.com/news/national/12601-food-outlets-to-be-inspected](http://www.solomonstarnews.com/news/national/12601-food-outlets-to-be-inspected)  
accessed Nov. 26, 2012

"China United Boss Arrested," Solomon Star, March 17, 2012,  
[www.solomonstarnews.com/news/business/13978-china-united-boss-arrested](http://www.solomonstarnews.com/news/business/13978-china-united-boss-arrested)

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Solomon Islands is a country known to have polluted its environment through activities by the logging industry and its single gold mining company. Most of resource owners' complaints relating to environmental degradation have not been addressed to date. However, there were incidents within the city, where the Council Law Enforcement agencies carried out relating to public sale of unhygienic products on the street have been requested to remove from the city. These operations were perceived as fair by the public.

**References:**

Tony Hou, private consultant, town and country planning; private business, interviewed Sept. 10, 2012, Honiara.

Ethel Frances, private consultant, ProBus Services, interviewed Sept. 9, 2012, in Gizo.

Wilson Suhara, financial controller of Pacific Porphyry (SI) Ltd., interviewed Sept. 10, 2012, in Honiara.

Milligan Pina, former electoral officer with the Office of the Electoral Commission and now chief planner of Isabel Province, interviewed Sept. 18, 2012.

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Inspections by government officials to ensure that regulatory standards are met generally occur haphazardly. Most officials would prefer to do their jobs properly but are undermined by interference from politicians and senior managers. Resources chronically are in short supply. There are also issues with the technical capacity of some public officials to undertake specific regulatory functions like health and building inspections. Building inspections are notorious for being highly variable, with some buildings being constructed that are obviously substandard.

**References:**

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

"China United Boss Arrested," Solomon Star, March 17, 2012,  
[www.solomonstarnews.com/news/business/13978-china-united-boss-arrested](http://www.solomonstarnews.com/news/business/13978-china-united-boss-arrested)

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

---

## Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

---

### 6.1. <sup>72</sup>Anti-Corruption Law

---

#### 73. Is there legislation criminalizing corruption?

89

73a. In law, attempted corruption is illegal.

Yes

| No

**Comments:**

The Leadership Code contains provisions that cover corrupt acts, but it is not part of criminal law. It is an “integrity code,” and breaches of the code carry a maximum penalty of SI\$5,000 (US\$707) or dismissal from office. But dismissal from office has never occurred, even when a leader has been found guilty of the criminal act of official corruption.

Recommendations have been made to strengthen the Leadership Code for some years but are yet to be formally drafted as a bill.

The Penal Code has been formally recognized as being deficient in addressing corrupt practices. It is confusing and outdated, and acquittals of senior officials have occurred based on technical irregularities of the law (e.g. Zama v. Regina [2007] SBHC 113; HC-SI CRAC 146 of 2007). Comprehensive recommendations in a report of the Solomon Islands Law Reform Commission in 2011 to streamline and strengthen the Penal Code in regard to corruption have not been acted upon.

**References:**

Penal Code [Cap 26], Parts X and XXXVIII, [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

Leadership Code, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Solomon Islands Law Reform Commission, “Review of the Criminal Code and Criminal Procedure Code,” 2011.

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes

| No

**Comments:**

The Leadership Code has provisions that cover corrupt acts, but it is not part of criminal law. It is an “integrity code,” and breaches of the code carry a maximum penalty of SI\$5,000 (US\$707) or dismissal from office. But dismissal from office has never occurred, even when a leader has been found guilty of the criminal act of official corruption.

Recommendations have been made to strengthen the Leadership Code for some years but are yet to be formally drafted as a bill.

The Penal Code has been formally recognized as being deficient in addressing corrupt practices. It is confusing and outdated, and acquittals of senior officials have occurred based on technical irregularities of the law (e.g. Zama v. Regina [2007] SBHC 113; HC-SI CRAC 146 of 2007). Comprehensive recommendations in a report of the Solomon Islands Law Reform Commission in 2011 to streamline and strengthen the Penal Code in regard to corruption have not been acted upon.

**References:**

Penal Code [Cap 26], Part X, [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

Leadership Code, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Solomon Islands Law Reform Commission, “Review of the Criminal Code and Criminal Procedure Code,” 2011.

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes

|

No

**Comments:**

The Leadership Code has provisions that cover corrupt acts, but it is not part of criminal law. It is an “integrity code,” and breaches of the code carry a maximum penalty of SI\$5,000 (US\$707) or dismissal from office. But dismissal from office has never occurred, even when a leader has been found guilty of the criminal act of official corruption. Recommendations have been made to strengthen the Leadership Code for some years but are yet to be formally drafted as a bill.

The Penal Code has been formally recognized as being deficient in addressing corrupt practices. It is confusing and outdated, and acquittals of senior officials have occurred based on technical irregularities of the law (e.g. Zama v. Regina [2007] SBHC 113; HC-SI CRAC 146 of 2007). Comprehensive recommendations made in a report of the Solomon Islands Law Reform Commission in 2011 to streamline and strengthen the Penal Code in regard to corruption have not been acted upon.

**References:**

Penal Code [Cap 26], Parts X and XXXVIII, [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

Leadership Code, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Solomon Islands Law Reform Commission, “Review of the Criminal Code and Criminal Procedure Code,” 2011.

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes

|

No

**Comments:**

The Leadership Code has provisions that cover corrupt acts, but it is not part of criminal law. It is an “integrity code,” and breaches of the code carry a maximum penalty of SI\$5,000 (US\$707) or dismissal from office. But dismissal from office has never occurred, even when a leader has been found guilty of the criminal act of official corruption. Recommendations have been made to strengthen the Leadership Code for some years but are yet to be formally drafted as a bill.

The Penal Code has been formally recognized as being deficient in addressing corrupt practices. It is confusing and outdated, and acquittals of senior officials have occurred based on technical irregularities of the law (e.g. Zama v. Regina [2007] SBHC 113; HC-SI CRAC 146 of 2007). Comprehensive recommendations made in a report of the Solomon Islands Law Reform Commission in 2011 to streamline and strengthen the Penal Code in regard to corruption have not been acted upon.

**References:**

Penal Code [Cap 26], Parts X and XXXVIII, [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

Leadership Code, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Solomon Islands Law Reform Commission, "Review of the Criminal Code and Criminal Procedure Code," 2011.

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes

No

**Comments:**

There are no laws that expressly forbid bribing a foreign official.

The Law Reform Commission report of 2011 concerning the Criminal Code recommends the law be changed to criminalize bribery of a foreign official or an official of an international organization.

**References:**

N/A

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes

No

**Comments:**

The Leadership Code has provisions that cover corrupt acts, but it is not part of criminal law. It is an "integrity code," and breaches of the code carry a maximum penalty of SI\$5,000 (US\$707) or dismissal from office. But dismissal from office has never occurred, even when a leader has been found guilty of the criminal act of official corruption. Recommendations have been made to strengthen the Leadership Code for some years but are yet to be formally drafted as a bill.

The Penal Code has been formally recognized as being deficient in addressing corrupt practices. It is confusing and outdated, and acquittals of senior officials have occurred based on technical irregularities of the law (e.g. Zama v. Regina [2007] SBHC 113; HC-SI CRAC 146 of 2007). Comprehensive recommendations made in a report of the Solomon Islands Law Reform Commission in 2011 to streamline and strengthen the Penal Code in regard to corruption have not been acted upon.

A Police Act bill has been drafted that contains provisions that cover abuse of office.

Public Service General Orders and Regulations also cover abuse of office, but not in a criminal sense.

**References:**

Penal Code [Cap 26], Part X, [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

Solomon Islands Law Reform Commission, "Review of the Criminal Code and Criminal Procedure Code," 2011.

Leadership Code, [www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

**Yes:** A YES score is earned if using public resources for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes

|

No

**Comments:**

Leadership Code (Further Provisions) Act [Cap 86], Part III, Section 15 and Official Secrets Act [Cap 25] criminalize using confidential state information for private gain.

**References:**

Leadership Code (Further Provisions) Act [Cap 86], Part III, Section 15,  
[www.paclii.org/sb/legis/consol\\_act/lcpa366/](http://www.paclii.org/sb/legis/consol_act/lcpa366/)

Official Secrets Act [Cap 25][www.paclii.org/sb/legis/consol\\_act/osa156/](http://www.paclii.org/sb/legis/consol_act/osa156/)

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes

|

No

**Comments:**

The Financial Institutions Act of 1998 and the Money Laundering and Proceeds of Crime (Amendment) Act 2010 criminalize money laundering.

**References:**

Financial Institutions Act 1998,  
[www.paclii.org/sb/legis/num\\_act/fia1998258/](http://www.paclii.org/sb/legis/num_act/fia1998258/)

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**Yes** | **No**

**Comments:**

Penal Code, Chapter 26, Part XL, Section 385 states, “Any person who conspires with another to effect any of the purposes following, that is to say (a) to effect any unlawful purpose; or (b) to effect any lawful purpose by any unlawful means, is guilty of a misdemeanor.”

**References:**

Penal Code, Chapter 26, Part XL, Section 385,  
[www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

**Yes** | **No**

**Comments:**

The police are the only ones who can investigate allegations of criminal corruption. Only the public prosecutor can prosecute criminal corruption based on an evidence brief from the police. The Police Act [Cap 110], 1996 edition, sets out the powers of the

police to investigate allegations of criminal behavior, including corruption. Section 91 of the constitution establishes the office and mandate of the public prosecutor to prosecute crimes, including corruption.

There is no specialist anti-corruption agency with the task to investigate and prosecute criminal corruption.

Other agencies can investigate noncriminal allegations of corruption, and some can impose noncustodial penalties such as fines or dismissal from office. The Public Service Commission and the Leadership Code Commission can do this. No leader has been dismissed from office by the Leadership Code Commission. The maximum fine the Leadership Code Commission, or LCC, can impose is SI\$5,000 (US\$705).

Former Prime Minister Danny Phillip was fined SI\$4,000 (US\$530) by the LCC for authorizing the sale while he was prime minister of a high-value government house to another member of Parliament for a sum dramatically below that of the market value ([www.islandsun.com.sb/index.php?option=com\\_content&view=article&id=5822:im-not-responsible-to-sale-govt-houses-pm&catid=36:latest-news&Itemid=79](http://www.islandsun.com.sb/index.php?option=com_content&view=article&id=5822:im-not-responsible-to-sale-govt-houses-pm&catid=36:latest-news&Itemid=79)). No criminal investigation into this act by the police has been reported.

LCC investigations and decisions are not required by law to be made public, and in practice only the summary decision is reported by the commission.

The ombudsman has only the power to make recommendations to Parliament.

**References:**

The Police Act [Cap 110], 1996, [www.paclii.org/sb/legis/consol\\_act/pa75/](http://www.paclii.org/sb/legis/consol_act/pa75/)

Constitution, Section 91, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**No:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

## 75. Is the anti-corruption agency effective?

56

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes

|

No

**Comments:**

The police fraud squad in theory reports to the police commissioner, who is appointed for a fixed term. The police commissioner office is a constitutional one.

The director of public prosecutions is an independent constitutional office.

**References:**

Constitution of Solomon Islands 1978, Sections 43 and 91, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by

partisans.

**No:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Solomon Islands has no specific anti-corruption agency. Only the police can investigate allegations of criminal corruption, and the public prosecutor has sole authority to prosecute criminal charges. The Leadership Code Commission, or LCC, oversees the Leadership Code, which is a code of conduct with weak punitive sanctions. In general, the LCC is not subject to direct political interference — most likely because it does not present a great threat to politicians or senior public servants who are involved with acts of corruption. For example, the maximum fine it can issue is SI\$5,000 (about US\$705). It is supposed to be able to procure the dismissal from office and imprisonment of leaders who are found to be corrupt, but there are technical obstacles and that mean this has never happened. The LCC also gets its funds through the Prime Minister's Office, and investigations have been canceled because requests have been ignored.

The other “integrity” agencies, the auditor-general and the ombudsman, are not subject to political interference for the same reason — they are minor irritants at best to public officials who are involved in gross acts of corruption, despite the good intentions of the heads of the agencies. For corrupt public officials, interfering with these agencies politically may cost more than the alternative course of action — ignoring them. There is no evidence that the police are subject to direct political interference. They are surrounded by incentives that render their anti-corruption efforts mostly harmless. The public prosecutor is independent and there is no evidence that the prosecutor’s office is subject to direct political interference.

**References:**

“Lilo Rejects House Sale Call,” Solomon Star, Oct. 11, 2012,  
[www.solomonstarnews.com/news/national/16158-lilo-rejects-house-sale-call](http://www.solomonstarnews.com/news/national/16158-lilo-rejects-house-sale-call)

“Reforming the LCC,” Solomon Star, Nov. 2, 2012,  
[www.solomonstarnews.com/viewpoint/private-view/16393-reforming-the-lcc](http://www.solomonstarnews.com/viewpoint/private-view/16393-reforming-the-lcc)

Emmanuel Kouhata, Leadership Code Commission chairman, interviewed July 27, 2012.

Philip Kanairara, principal legal officer, Law Reform Commission, interviewed July 30, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O’Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | **75** | 50 | 25 | 0

**Comments:**

Though one of the heads of the integrity institutions reports to the prime minister, the integrity of this situation has never been disproved (i.e. no one has abused his position to politically interfere with the head of the Leadership Code Commission).

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Walter Malau, executive officer, Transparency Solomon Islands.

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

**Comments:**

Appointments are based on professional criteria and not party and family connections. No incidents of improper management practices were noted from June 2011 to June 2012.

**References:**

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Nancy Legua, undersecretary at Ministry of Provincial Government and former undersecretary at Ministry of Public Service, interviewed Sept. 18, 2012, at Heritage Hotel, Honiara.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

**Comments:**

Although adequate in numbers, the Office of the Auditor General still requires more professional staffing.

**References:**

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | **50** | 25 | 0

**Comments:**

The agency's budget has always been provided, it but also has been insufficient to meet the need for necessary investigations.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

Philemon Kaola, senior auditor, Office of the Auditor General, interviewed Sept. 18, 2012, in Chinatown, Honiara.

Solomon Islands National Budget, 2012-13 financial period, Ministry of Finance, Honiara.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | **25** | 0

**Comments:**

The auditor general is transparent about its public reporting, but this is not true of the Leadership Code Commission and the ombudsman.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | **25** | 0

**Comments:**

The police have full powers to investigate acts of criminal corruption but are perpetually hindered by lack of technical capacity, personnel and funding. All the other "integrity" agencies – Leadership Code Commission, ombudsman and auditor general – need greater legal powers to better target corruption. The result is there have been very few successful prosecutions for corruption or similar acts in Solomon Islands. Arguably, some of the integrity agency heads could be doing more with their existing powers, but choose not to do so.

**References:**

United Nations Development Program, "Accountability Institutions: Review of Solomon Islands," 2010.

"Reforming the LCC," Solomon Star, Nov. 2, 2012,  
[www.solomonstarnews.com/viewpoint/private-view/16393-reforming-the-lcc](http://www.solomonstarnews.com/viewpoint/private-view/16393-reforming-the-lcc)

"Ronia Shares Report on Audit Office Here," Solomon Star, Nov. 3, 2012,  
[www.solomonstarnews.com/news/national/16400-ronia-shares-report-on-audit-office-here](http://www.solomonstarnews.com/news/national/16400-ronia-shares-report-on-audit-office-here)

"Sogavare Calls for More Recognition of OAG," Eddie Osifelo, Solomon Star, Dec. 3, 2011,  
[www.solomonstarnews.com/news/national/13001-sogavare-calls-for-more-recognition-of-oag](http://www.solomonstarnews.com/news/national/13001-sogavare-calls-for-more-recognition-of-oag)  
accessed Nov. 26, 2012

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Edward Ronia, auditor general, interviewed July 31, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

Sometimes investigations are carried out because of media reporting and public pressure.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Joseph Ramo, head of State Owned Enterprises Branch, Office of the Auditor General, interviewed Sept. 18, 2012.

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

## 76. Can citizens access the anti-corruption agency?

13

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.



**Comments:**

Complaints can take more than a month to answer or generate no response at all.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.



**Comments:**

Corrupt happenings occur in communities, but fear of consequences keep people from reporting them.

**References:**

Noel Mamaau, former Makira-Ulawa politician and now business owner, interviewed Sept. 13, 2012, at the Freshwind Motel, Kirakira, Makira-Ulawa Province.

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

---

56

### 6.3. Judicial Independence, Fairness, and Citizen Access to Justice

---

77. Is there an appeals mechanism for challenging criminal judgments?

100

77a. In law, there is a general right of appeal.

Yes

|

No

**Comments:**

The constitution guarantees a general right to a court appeal.

**References:**

Constitution of Solomon Islands 1978, Section 18 (4), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**No:** A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100

|

75

|

50

|

25

|

0

**Comments:**

Judicial appeals are heard within the schedule of a backlog of cases. Appeals can take up to days (for very urgent cases), weeks or months (for general appeals).

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

Florrie Alalo Paulsen, assistant advocacy legal officer, interview with staff at Transparency Solomon Islands, Sept. 14, 2012, Transparency Solomon Islands office.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, because the Government Office of the Public Solicitor assists in the process to reduce costs.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

100

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

The appeal process helps ensure that judgments follow the letter of the law. When a judge declares or interprets law incorrectly, the decision can be appealed.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

100

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

Judicial decisions are enforced by the state Institutions, the police or the Sheriff's Department, customs and other law enforcement agencies.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

## 80. Is the judiciary able to act independently?

50

80a. In law, the independence of the judiciary is guaranteed.

Yes

No

**Comments:**

The judiciary in practice is independent of government, however, no express legal provisions guarantee the independence of the courts. Staffing, procurement and budgets are administered through government ministries.

**References:**

N/A

**Yes:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

**No:** A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Judges must exercise impartiality and independence because any suspicion undermines the judges' credibility.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes

No

**Comments:**

No law prescribes how cases are distributed and managed. The chief justice is responsible for case management policy.

**References:**

N/A

**Yes:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**No:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes

No

**Comments:**

There are specific, formal rules for removal of a justice.

**References:**

Constitution of Solomon Islands 1978, Section 80, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes |  No

**Comments:**

Judges are highly respected members of the community, and they have not been the victims of any such criminal acts.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**Yes:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes |  No

**Comments:**

No judges have been killed for adjudicating corruption allegations.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**Yes:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

## 82. Do citizens have equal access to the justice system?

82

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

The constitution protects this, and the appeal process ensures this. Judges are expected to deliver judgments on points of law, regardless of ethnic or other biases.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

Women have not been denied access to the justice system.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes

|

No

**Comments:**

Section 92 of the constitution states:

- (4) The functions of the Public Solicitor are to provide legal aid, advice and assistance to persons in need in such circumstances and subject to such conditions as may be prescribed by Parliament, and in particular
- (a) to provide legal aid, advice and assistance to any person in need who has been charged with a criminal offense; and
  - (b) to provide legal aid, advice and assistance to any person when directed to do so by the High Court.
- (5) A person aggrieved by a refusal of the Public Solicitor to provide legal aid, advice and assistance to him may apply to the High Court for a direction under paragraph (b) of the preceding subsection.

**References:**

Constitution of Solomon Islands 1978, Section 92, establishes the Office of the Public Solicitor,  
[www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100

|

75

|

50

|

25

|

0

**Comments:**

Definitely not. The Public Solicitor, a state-funded office, is understaffed. It is not adequately budgeted to handle cases in Honiara and to bring its services to the provinces.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

**Comments:**

The public solicitor usually would assist this type of client. That is no longer the case because of the lack of funding. The private service is extremely expensive.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.



**Comments:**

Yes, depending on its capacity to afford private legal services. There are no restrictions on who may institute legal proceedings before a court of law.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.



**Comments:**

The courts are open to everyone, but they are located in urban centers (Honiara, Auki, Gizo, Kirakira, Lata). Citizens living far away would have to bear the cost of travel and find accommodations during the period of litigation.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

### 83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

#### Comments:

Most of the time, applicants with connections to senior-level people in the police force are appointed. However, a flawed selection process compromises the independence of a force. Senior-level people can use their connections to impede investigations that threaten their interests or those of their friends or associates.

A law enforcement agency such as police or customs has a low entry salary in the civil service. The pay usually commences around SI\$16,000 (US\$2,000) per annum. Thus, these institutions attract applicants with nonprofessional qualifications, except for high positions.

#### References:

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

Walter Malau, executive officer, Transparency Solomon Islands.

Daniel Fenua, Research and Communications Unit, Transparency Solomon Islands.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The Royal Solomon Islands Police Force has budget limitations. For example, it does not have enough vehicles or enough funds to recruit police. To ensure an active force, equipment and staff entitlements must be better.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

While it is expected that police will carry out their tasks independently, in practice they receive their directives from political heads. However, their job should always be to receive complaints, investigate them and ascertain whether a criminal offense has been committed.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

Daniel Fenua, Research and Communications Unit, Transparency Solomon Islands, April 19, 2012, Solomon Star.

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

#### 84. Can law enforcement officials be held accountable for their actions?

50

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes

No

**Comments:**

No prescribed, independent mechanism has been established solely for citizens to complain about the police. However, the ombudsman can take complaints about police actions.

**References:**

Constitution of Solomon Islands 1978, Section 97 (3), [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The manpower of the Police Corruption Squad, a capacity of four staff members, is insufficient. Given Parliament's total of 50 members, and that 80 to 90 percent of all corruption complaints were submitted to the Corruption Squad, the unit found it difficult to clear a backlog during the study period. Moreover, there is corruption at the provincial level, and also complaints coming from the civil sector implicating senior bureaucrats.

Thus, sometimes the response will be to inform those who file complaints about the steps taken to resolve the issues, but not to update them on the outcome. Responses take longer than expected, sometimes more than one year.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

Trevor Crook, investigative Australian adviser, Corruption Squad, Solomon Islands Police Force, interviewed July 24, 2012, at Transparency Solomon Islands office.

Joe Siapu, senior sergeant, Corruption Squad, Solomon Islands Police Force, interviewed July 24, 2012, at Transparency Solomon Islands office.

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes

|

No

**Comments:**

The public prosecutor can and does prosecute police and public officials for breaches of the criminal law, including corruption. No other agency specifically does this. The Leadership Code Commission oversees leaders only and does not administer criminal law (the Leadership Code is a professional code of conduct). The ombudsman can only make recommendations to Parliament.

Section 91 of the constitution outlines the mandate of the director of public prosecutions:

- (1) There shall be a Director of Public Prosecutions whose office shall be a public office.
- (2) The Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.
- (3) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is entitled to practice in Solomon Islands as an advocate or as a barrister and solicitor.
- (4) The Director of Public Prosecutions shall have power in any case in which he considers it desirable to do so:
  - (a) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offense alleged to have been committed by that person;
  - (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
  - (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
- (5) The powers of the Director of Public Prosecutions under the preceding subsection may be exercised by him in person or through other persons acting in accordance with his general or specific instructions.
- (6) The powers conferred on the Director of Public prosecutions by paragraphs (b) and (c) of subsection (4) of this section shall be vested in him to the exclusion of any other person or authority:  
Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.
- (7) In the exercise of the powers conferred on him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority:  
Provided that, where any case in any way concerns the defense, security or international relations of Solomon Islands, the Director of Public Prosecutions shall bring the matter to the attention of the Minister responsible for justice and shall, in the exercise of his powers in relation to that case, act in accordance with any directions that Minister may give to him.
- (8) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings to any other court, shall be deemed to be part of

those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by paragraph (c) of subsection (4) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(9) During any period when the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions of his office, those functions shall be performed by the Attorney-General.

The following case refers to the prosecution and conviction of police officers (Regina v. Oeta, 2004).

**References:**

Section 91 of the Constitution, [www.paclii.org/sb/legis/consol\\_act/c1978167/](http://www.paclii.org/sb/legis/consol_act/c1978167/)

Regina v. Oeta [2004] SBHC 42; HC-CRC 173 of 2003 (17, May 2004),  
[www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2004/42.html?query=](http://www.paclii.org/cgi-bin/disp.pl/sb/cases/SBHC/2004/42.html?query=)

**Yes:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | **50** | 25 | 0

**Comments:**

Selective enforcement exists. The deputy commissioner of police, for example, has so far evaded/avoided investigations, perhaps using his weight on the force. Allegations against top government officials have not been investigated.

**References:**

Anderson Kesaka, legal practitioner, Public Solicitor's Office, email correspondence on Sept. 12, 2012.

Natalie Tadiki, master of laws student, the University of the South Pacific, email correspondence on Sept. 9, 2012.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

**Comments:**

No laws provide immunity for Solomon Islands police.

Foreign police and personnel serving under the Regional Assistance Mission Solomon Islands have limited immunity.

**References:**

Police Act [Cap 110], Section 20, [www.paclii.org/sb/legis/consol\\_act/pa75/](http://www.paclii.org/sb/legis/consol_act/pa75/)

Facilitation of International Assistance Act (No. 1 OF 2003), Section 17,  
[www.parliament.gov.sb/files/committees/foreignrelations/facilitation.pdf](http://www.parliament.gov.sb/files/committees/foreignrelations/facilitation.pdf)

**Yes:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**No:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

In general, law enforcement officials do not have immunity to criminal proceedings. However, powerful factions operate semi-autonomously within the police and have de facto immunity. Generally, ordinary citizens do not fear the police and will make public accusations against them.

**References:**

United Nations Development Program, "Accountability Institutions: Review of Solomon Islands," 2010.

"Step-father Gets 14 Years Jail Term," Solomon Star, Dec. 5, 2012,  
[www.solomonstarnews.com/news/national/16614-step-father-gets-14-years-jail-term](http://www.solomonstarnews.com/news/national/16614-step-father-gets-14-years-jail-term)

"Top Cops in Serious Offenses," Daniel Namosuaia, Solomon Star, Sept. 21, 2011,  
[www.solomonstarnews.com/news/national/12212-top-cops-in-serious-offences](http://www.solomonstarnews.com/news/national/12212-top-cops-in-serious-offences)  
accessed Nov. 27, 2012

"RSIPF Bosses Again," Solomon Star, letter to the editor, June 20, 2012,  
[www.solomonstarnews.com/viewpoint/letters-to-the-editor/15182-rsipf-bosses-again](http://www.solomonstarnews.com/viewpoint/letters-to-the-editor/15182-rsipf-bosses-again)  
accessed Nov. 27, 2012

"Sasako Calls for Kola's Suspension," Solomon Star, June 18, 2012,  
[www.solomonstarnews.com/news/national/15124-sasako-calls-for-kolas-suspension](http://www.solomonstarnews.com/news/national/15124-sasako-calls-for-kolas-suspension)  
accessed Aug. 27, 2012

Ashley Wickham, adviser to leader of the opposition, educator and journalist, interviewed July 25, 2012.

Shepherd Lapo and Florrie Alalo Paulsen, Advocacy and Legal Advice Center manager for Transparency Solomon Islands and a legal officer, respectively, interviewed July 27, 2012.

Ruth Liloqua, social and economic development manager for Gold Ridge Mining, chairwoman of Transparency Solomon Islands, former secretary to the Cabinet and commissioner of lands, interviewed Dec. 12, 2012.

Joses Tuhanuku, trade union leader and former Cabinet minister, chairman of Public Accounts Committee and director of Central Bank, interviewed Dec. 12, 2012.

Mary Louise O'Callaghan, three times Walkley Award-winning senior journalist and public affairs manager for Regional Assistance Mission to Solomon Islands, interviewed Aug. 3, 2012.

John Taupongi, associate at Michael Pitakaka Law Chambers, secretary of Transparency Solomon Islands and former constitutional law adviser to National Parliament, interviewed Dec. 12, 2012.

---