

# Solomon Islands Notebook 2012

The MP, the Fishermen and Bags of Missing Money...

By *Koroi Hawkins\**

The motto on the Solomon Islands coat of arms reads, "To Lead Is To Serve." Though a noble concept, it is one that is often joked about among Solomon Islanders, adding "yourself" to the end of the motto for a dash of reality.

The sad truth is that many of the country's leaders, past and present, have been serving themselves and are part of the reason the Solomon Islands is among the top three most corrupt countries in the Pacific region.

Week in and week out, local newspapers and broadcasters inform the public of new corruption scandals in government or under-the-table deals within the private sector. According to the 2008 Global Integrity Report, one of the highest scoring anti-corruption indicators for Solomon Islands is freedom of the press. However, with the country scoring poorly in other indicators such as accountability institutions, whistle-blowing and freedom of information legislation, very few perpetrators ever see the inside of a courtroom, let alone a jail cell.

On the front line in the fight against corruption is the Office of the Director of Public Prosecutions (DPP). According to the current DPP, Ronald Talasasa, there is not enough awareness about how those affected by corruption can seek justice through the courts.

"Only a small percentage of what we hear on the streets and what appears in the media ever reaches my office in the form of an actionable complaint," Talasasa said. "What this means I cannot fully say, but what is clear is that the data for the number of corruption cases coming through my office from the police does not reflect the number of corruption stories we see in the media."

Talasasa further stressed the importance of strong evidence in tackling corruption through the court systems.

"Allegations against public officials are available – but we need evidence," Talasasa said. "So it is important that people do come forward, report corruption, but also be willing to give their story and that their report can be a scrutinized, credible story that can be used as evidence in court."

Despite the few corruption cases filed by his office, Talasasa said the success rate for prosecution of corruption cases is encouraging.

"I can safely say that 90 percent of cases that come through our office and are processed by my office end up with a conviction," Talasasa said. The problem, he said again, is that "not enough people are coming forward to report and testify against corruption."

Every once in a while, however, a "big fish" is caught, prosecuted and convicted. This happened in February 2012 when justice, though somewhat delayed, was served.

## From Parliament to Prison

Mark Kemakeza, the member of Parliament for Ngella constituency, was charged with two counts of official corruption, two counts of conversion, and one count of abuse of office.

## Peer Review Comments

### Reviewer 1831:

In my view this article is accurate, fair and relevant. It covers the main themes of corruption in Solomon Islands in 2012. These themes are: 1. The ongoing growth of the proportion of public expendit...

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### Reviewer 1813:

Although the Kemakeza case is representative of the misuse of development funds by MPs, this type of corruption pales in comparison to the misuse of official powers through bribery, collusion or kickb...

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The trial began in February 2011 and concluded in May. Submissions were made in December, and the judgment was handed down in February 2012.

The charges dated to August-October 2007 and involved two lots of funding for fisheries projects in Ngella. The first, a nondiscretionary one, involved a series of 10 checks worth \$484,000 Solomon Island Dollars (US \$67,123.47), approved under the national micro fisheries project and designated for members of the Ngella constituency. The second lot of funding, which was also for fisheries, was worth \$280,000 Solomon Island Dollars (US \$39,000), and was partially discretionary in that parliamentarians could choose the beneficiaries. The recipients, however, needed to be involved in micro fisheries.

Kemakeza was accused of abuse of office and official corruption in relation to the first lot of funding. The allegation was that he took control of 10 checks made out to 10 separate beneficiaries and had the checks deposited into a third-party account. This was achieved despite several arguments with the bank, but the bank agreed to the request when Kemakeza secured written authorization from officials within the Ministry of Finance. It was further alleged that Kemakeza then proceeded to access and manipulate the funds through the third-party account. In court Kemakeza testified that he did so to ensure the money was used for fisheries projects and not other non-approved activities, something he said had happened in the past with such funding.

The core of the prosecution's case was based on the testimony of the intended recipients of the 10 checks. One of these witnesses was the person who brought the case to the police.

Magistrate Shaffir Khan in his judgment said he did not believe the prosecution had proved beyond reasonable doubt that Kemakeza had committed any crime and acquitted him of all charges in relation to the first lot of funding.

The prosecutor, Robert Barry, said he accepted the court's decision. However, he made the general point – being someone who has prosecuted many corruption cases in the Solomons – that it is often difficult to obtain verdicts of guilty in the Solomon Islands even if the matter is investigated. This is because of the ultimate unwillingness – for various reasons – of witnesses to testify to their statements in court.

“Because whether it be the result of a bribe or simply an unwillingness to do your duty, public or civic, this behavior” on the part of witnesses – after having initially supplied useful evidence – simply represents an extension of the endemic corruption in the country.

In relation to the second lot of funds, the charge against Kemakeza read:

“That Mark Kemakeza between 15 October 2007 and 30 November 2007, at Honiara, being entrusted with property namely \$280,000 Solomon Island Dollars (US \$38,800), being funds to be paid or delivered pursuant to the rural micro fisheries projects 2007, did fraudulently convert to his own use the said property.”

The allegation was that these funds simply never reached their intended recipients and that Kemakeza fraudulently converted the money to his own use. Kemakeza was convicted on one count of conversion thanks to strong evidence, as well as circumstantial evidence – such as the fact that a day after the \$280,000 Solomon Island Dollars (US \$39,000) hit the constituency account, the MP made a cash withdrawal of \$200,000 Solomon Island Dollars (US \$28,000), an action he could not satisfactorily explain nor account for in court.

### **How Widespread is Corruption?**

International corruption indexes such as Transparency International and the Global Integrity Report rate Solomon Islands as being very corrupt and having very weak accountability and integrity institutions, respectively.

Transparency International's Corruption Perceptions Index scores countries on a scale of zero to 10, with zero indicating high levels of corruption and 10, low levels. In 2011, the Solomon Islands received a score of 2.7 on this index, ranking among the most corrupt countries in the world.

The Solomon Islands' poor performance on the CPI is consistent with post-conflict countries where government instability is common. In 30 years of democracy, only one Solomon Islands prime minister has served for the full four-year term.

There is no anti-corruption body in existence in Solomon Islands, although the creation of one has been the “first priority” of many governments in the past and is a top priority for the current administration under Prime Minister Gordon Darcy

Lilo. His director of good governance, Andrew Muaki, has said an Independent Commission Against Corruption is to begin in 2013.

Solomon Islands' auditor general, Edward Ronia, points to Solomon Islands' toothless watchdogs. His office has been exposing anomalies in public spending for many years. He says that, although some of his office's reports clearly show millions of dollars in misused funds across all levels of government and identify areas of malpractice within the ministries, nothing is ever taken up by the police.

"In terms of actions by the director of public prosecutions or the police, they have never taken up action on any of our reports. I would have liked to see them further investigated so that proper actions can be performed on the people concerned, but that has not happened," Ronia said. "All we can do is ask the ministries concerned what they have done with the findings of our reports, but it is really up to them to act on our reports."

"We give our reports back to the ministries we audit, so it is the respective ministry's responsibility more than anyone else to pursue further legal action based on our reports – and it is this aspect of their responsibility that is most worrying to me," Ronia said.

But Ronia added that while it is understandable that people in power might avoid prosecuting themselves, there is no reason independent authorities such as the police and the DPP shouldn't take the initiative to act on the auditor general's findings.

"Our reports are public documents once they reach Parliament. We give copies to the police and to the DPP, but nothing is ever done to further investigate them," Ronia said. "We would be more than willing to share with them our findings and assist them if they were to take further action on our reports."

### **Roadmap for a Corruption-free Solomon Islands?**

There are many underlying issues that contribute to and allow corruption to flourish in the Solomon Islands.

The Solomon Islands Workshop on Ratification and Implementation of the United Nations convention against corruption, held in the capital, Honiara, in October 2011, focused on what needs to be done to improve the fight against corruption. Workshop attendees included members of Parliament, a number of ministers, as well as officials from key constitutional bodies and a range of government agencies and departments.

The workshop attendees identified areas where they believed work needed to be done, including commencing the national process to progress accession to the United Nations Convention against Corruption; reviewing and/or enacting legislation to ensure that legal loopholes are closed and existing accountability institutions are strengthened; exploring options for establishing some form of Independent Commission Against Corruption which can more actively investigate and prosecute corruption; and strengthening Parliament's engagement with accountability issues to ensure that Parliament more proactively tackles corruption issues, among other ideas.

However, progress has been slow.

According to the director of good governance within the office of prime minister, Andrew Muaki, work on strengthening anti-corruption legislation and creating anti-corruption bodies has been endorsed by the Cabinet and a task force put together, but due to the lack of funding for 2012, work will not begin until 2013. Muaki, who was among the workshop attendees, said as part of Solomon Islands' ratification of the United Nations Convention against Corruption, there will be a national review of Solomon Islands' compliance with the articles to be carried out in 2013, and this will serve as a guideline for the anti-corruption task force to work toward.

### **The Ones that Got Away**

The Kemakeza case in isolation seems rather minor compared to other more serious incidents of corruption in the country, but it is just the tip of an ugly iceberg. The core of this issue is that Solomon Islands parliamentarians blatantly misuse of millions of dollars in discretionary funding. As Kemakeza testified in court, "I have received many such funds in the past, and I have never needed to account for them before."

As Khan, the principal magistrate, noted, the lack of accounting by members of Parliament for funds is common. Khan, addressing Kemakeza at the sentencing, said, "One of the most disturbing features that surfaced during your trial was

that none of the members of Parliament who were allocated these fishing projects funds submitted any reports or retirement between the year 2006-2009 to the responsible minister or to Parliament.”

There are 50 members of Parliament in Solomon Islands, and the micro fisheries funding for 2007 alone was valued at 6,000,000 Solomon Islands Dollars (US \$832,000).

This means that millions of dollars meant for fishing projects nationwide have not been retired by any of the 50 members of Parliament. So far Kemakeza is the only member of Parliament taken to court to account for his actions in disseminating the micro fisheries funding in his constituency.

It is anybody's guess how many fishermen actually benefited from the micro fisheries project funding, or indeed how many members of Parliament have gotten away with converting these funds to their own benefit.

It is worth noting also that the fisheries project is tiny when compared to other discretionary funds available to Solomon Islands parliamentarians through multilateral and bilateral donor programs.

Each year, through these discretionary funds, more than 50,000,000 Solomon Islands dollars (US \$6.9 million), is given to parliamentarians, and year in and year out more than half of this money does not reach its intended recipients, the people of the Solomon Islands.

For his crime of fraudulently converting to his own use the sum of 280,000 Solomon Island Dollars (US \$38,800) meant for fisheries projects in 2007, Kemakeza was sentenced to 14 months in prison.

Section 51 of the Solomon Islands Constitution states that any member of Parliament who receives a sentence of six months or more should vacate his seat within 30 days of sentencing, provided no appeal is filed.

According to the High Court Registry, Kemakeza's defense lawyers initially filed an appeal but later withdrew it. Kemakeza was released from a low-security holding facility in November 2012 having served nine months and eight days of his 14-month sentence.

When the term of his full sentence expires in April 2013, Kemakeza will once again be eligible to re-contest the still vacant parliamentary seat for Ngella constituency. At the time this article was written, a by-election date had yet to be announced for Ngella constituency, and it is not known whether Kemakeza intends to re-contest.

### **Just the Tip of the Iceberg**

Kemakeza's case is but one of thousands of instances of corruption in Solomon Islands. Most cases have never been before the courts, and many never will get there.

But by far the saddest and most frustrating aspect of corruption in Solomon Islands is the devastating effect it has on people.

Someone will die because funds for much-needed medical supplies have been misused; a promising young student will turn to crime or prostitution because of cronyism and favoritism in the scholarship selection process; or a community struck by a natural disaster will suffer for months because funding for relief supplies has been illegally diverted. Or, in the case of Kemakeza, fishing communities of Ngella constituency will never see the benefits of the proposed micro fisheries program because the funds did not reach them.

More than anything else it is this negative impact of corruption on ordinary Solomon Islanders that signals a need for change.

But when and in what form this change comes is as yet unclear for Solomon Islands, as this second most corrupt country in the Pacific wraps up yet another year with an earful of empty promises. It is left without stronger anti-corruption legislation and still without an anti-corruption body to fight the systemic cancer hampering development and depriving its citizens of essential services.

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