Background Information

On the

Proposed State /Federal Government System for Solomon Islands.

Decentralization of powers from central authorities to lower levels of government has become a new trend in political development throughout the world. The view is that the latter are much closer to the majority of the people and therefore should ensure their direct participation in the governance process that affect their daily lives.

Solomon Islands today is no exception. The question of State / Federal Government System focussing mainly on decentralization of powers and autonomous status has been the subject of much debate at various levels in the country since we gained Independence from Britain in 1978. But that objective could only be properly addressed and achieved through changing the System of government that we inherited at independence. In response, previous successive governments had appointed a number of Committees to review the Government System adopted in the country.

The most recent of such Committees was the State Government Taskforce 2001 (SGTF 2001) which was appointed by the previous administration. The common feature in most of the Reports, the Townsville Peace Agreement (TPA ) and the Buala Communiqué and other documents was the call for the introduction of a State Government System in the country. Many people have attributed the recent crisis to central government intransigence over certain matters which could be handled more effectively by the provinces. The Townsville Peace Agreement (TPA) which advocated granting of autonomous status to all the provinces and in particular to Guadalcanal and Malaita provinces, and the Premiers’ Buala Conference Communiqué which called for the introduction of the State Government System in the country are consistent with the desire for the introduction of such government system in the country.

The Sogavare government in 2001 appointed a six man State Government Taskforce (SGTF 2001) to revisit and redefine the Report and Recommendations of the 1987 Constitutional Review Committee as the first real attempt by the central government to tackle the issue with a sense of urgency and total commitment. The SGTF 2001 was specifically tasked to Revisit and Redefine the 1987 Constitutional Review Committee Report and Recommendations and report back to Cabinet by 31 May 2001 on the most suitable Home-Grown State Government System to be introduced in Solomon Islands. Cabinet subsequently considered, approved and adopted the SGTF 2001 Report with some variations last year.

However, with the coming in of the Kemakeza Government in late 2001, there was a need to re-submit the same Paper to the new Cabinet. This was done on 31 January 2002 resulting in its readoption and reactivation of the SGTF 2001 Report and the Constitutional Amendment (Creation of the Federation) Bill 2001. Detailed work on these two documents leading to the drawing up of a New Constitution will commence in due course by the Office of the Attorney-General which is required to have this ready for
presentation in Parliament at its meeting in July/August 2002. The Constitutional Amendment (Creation of Federation) Bill 2001 will reflect the intentions, motives and spirit of the Taskforce Report.

This paper is an attempt to explain in a summary form to the public the main principles of the SGTF 2001 Report, which will form the basis of the New Constitution.

**Principles of the Proposed State/Federal Government System as contained in the SGTF 2002 Report as amended.**

1. **The Constitution.**

One of the most significant recommendations of the SGTF 2001 Report which is linked directly to the need to change the current government system to one that is relevant, responsive and amenable to the needs and aspirations of our people is that Solomon Islands should create a new Constitution for itself. The new Constitution should be truly an independent Constitution which is guided by the wisdom, experiences and inclinations of our people so that as far as it is practically possible, it should be largely Home-grown in nature.

Such a process can be done by the National Parliament by effecting the requirements of Section 61 (4) (b) (I) of the current Constitution which allows for altering or repealing of the Constitution. Preparatory work on drawing up the new Constitution has already started by the government legal draftsman following the Cabinet’s adoption on 31 January 2002 of the recommendation that the Constitutional Drafting Document (CONSTITUTIONAL AMENDMENT) (CREATION OF THE FEDERATION) 2001 BILL form the drafting instructions for the new Constitution. The deadline for the completion of the Draft Constitution has been set for June 2002 to meet Parliamentary requirements for the presentation of the Bill in Parliament at its meeting in July / August 2002. If all goes according to plan, Solomon Islands National Parliament should repeal the current Constitution and adopt a new one in its place during that meeting. It is expected that appropriate provisions would be included in the Constitution Amendment Bill to determine when it becomes operational. At any rate its commencement should not be prolonged unduly.

Like in the case of the Federation, the respective States will have their Home-grown State Constitutions. In those State Constitutions, the States will be expected to include areas such as land, traditional practices and norms, control of internal migration in terms of settlement, role of traditional Chiefs, power to raise funds, establishment of their own public service, legal system, health services, education, police force and so on.

2. **Introduction of State / Federal Government System.**

There are two distinctive systems of government commonly practiced in the developed democratic countries of the Western World which includes Great Britain whose political
legacy has been left with Solomon Islands since independence in 1978. These are the Unitary System of government and the Federalism system of government.

A What are their characteristics?

In the Unitary System of Government the principle powers to govern the nation are retained by the Central Government which usually only gives away such powers and functions to its subordinate authorities either under duress or at its own pleasure. Any governments below the Central Government level are created by the Central Government itself, mostly to serve its purposes. In our current system, for example, the Provincial Governments and the former Area Councils are the creations of the central government. As such, they are given powers and they exercise those powers at the pleasure of the central government. Those powers can be withdrawn at will, at anytime by the central authority. This system does not advocate real power sharing in the true sense of the word with subordinate authorities which are in reality agents of the central authority. In Solomon Islands, it is a well known fact that this System has proved unworkable for the reasons mentioned above, and the desire now is to change the system to one that is amendable to solving our problems in an effective manner.

B The Federal System of Government

In this system, the principle powers of government are shared between the Central Government and the State Governments which are autonomous political entities. The only powers that are retained by the centre are those relating to the conduct of Foreign Affairs, Defense, Immigration, Taxation and Import/Export while the States are given all the other powers to run their own affairs. The reason for this is that the areas retained by the Central government are national in nature and it alone can deal with foreign governments on behalf of Solomon Islands at a government to government level. A parallel relationship between the respective states of a foreign country with which Solomon Islands has diplomatic relations is possible at a state –to –state level.

3 Official Name of State

It is recommended that the name of Solomon Islands shall be “Sovereign Democratic Federal Republic of Solomon Islands”.

4. The Head of State.

The Head of State shall be an elected President who must be an indigenous Solomon Islander. This distinction must be made in order to prevent likely racial problems that have occurred in other multi-racial countries occurring here in Solomon Islands. The President will be elected by the members of the Federal Parliament and the Congress of Governors (made up of Governors of the States and traditional leaders or elderly statesmen/stateswomen appointed by the President (Head of State)). The Head of state will only have ceremonial powers and not absolute powers, as is the practice in the United States of America.
5 Number of States

It is recommended that the number of States making up Solomon Islands will be between 9 and 12 States (not less than 9 and not more than 12 States). The existing 9 provinces will automatically become States and will assume political status and recognition as full-fledged States in their own right when the new Constitution comes into force. There will be a transitional period which could take up to five years in the case of the bigger and wealthier States to ten years in the case of smaller and more dependent prone States to assume full responsibility for their own affairs. The Federal Government will continue to assist all States until such time they are in the position to take on full responsibilities to run their own affairs.

6 Decentralization of Powers.

As mentioned earlier, the Report recommends that much of the powers currently retained by the Central Government in terms of the political, financial, social, legislative and administrative powers should be decentralized to the States. To make the transaction irrevocable, the powers that are decentralized will be enshrined in both the Federal and the respective State Constitutions.

The political structure consisting of three tiers will comprise of the Federal, States and Local Government. Further decentralization of powers beyond the Local Government level will be a matter for the respective States to decide on.

The proposed division of powers is contained in Schedules I, II and III of the SGTF 2001 Report. As far as the crucial issue of economic development for and by the States is concerned the decentralizing of these powers to them should have the effect of encouraging resource owners to develop their resources for maximum benefit to all parties concerned. An acceptable sharing formulae would need to be worked out for the benefit of all stakeholders.

7 Political Structure

It is proposed that there will be a three-tier government system: Federal Government, State Governments and Local Governments with distinctive separation of operational powers prescribed under their respective Constitutions. States will be granted autonomous powers under the Federal Constitution. The States will have their own Constitutions. They will also have their own State Parliaments with the right to legislate on matters within their jurisdiction. The States will elect their own Governors whose function will be to sign the state laws when passed by their respective State Parliaments. Federal Parliament will only legislate on matters that are of national interest and sign into law by the President. The question of bicameralism (two Chambers House) is a matter for the Federal Government and States to decide on.
8 Role of Traditional Chiefs

It is proposed that the role of our Traditional Chiefs should be promoted at the State Parliament level so that they are actually involved in the Legislative process. The majority of the chiefs are resource owners therefore to involve them in the actual legislative process, appreciate it and will be beneficial, as they will allow their resources for economic developments. The role of the Chiefs will therefore need to be defined in respective State Constitutions. It is envisaged that the Chiefs will either be appointed in the traditional way applicable to the State or elected by Electoral College of Chiefs. A number of seats in the State Parliament should be reserved for the Chiefs. There should be a provision enshrined in the State Constitutions to legally legitimize the number of seats for the Chiefs. The Chiefs can still involve in the local and village levels, which is just as important as being in the State Parliament. Each State will have its legally established Councils of Chiefs with Chairmen elected by them.

9 State Governors

It is proposed that the States will have State Governors. The State Governors will be the equivalent of the President at the Federal level. It is proposed that the States Council of Chiefs, made up of the Area Councils Chairmen, Traditional Leaders/Elders and State Parliamentarians will elect the State Governors. Like the President at the Federal level, the State Governors will only have ceremonial powers. Their powers will be restricted to advice from the State Cabinets.

10 Wealth Sharing Formula

Distribution of financial wealth and developments services have tendered to be biased towards the big Provinces leaving the small to suffer and disadvantaged. A sharing formula is being worked out to ensure equitable distribution of wealth, in whatever form, among the 9 States while consideration must be given to the resources owners to be appropriately compensated for developments on their land. This is to make sure that disadvantaged Provinces in terms of population, landmass, resource and distance from the center of activities are not left out altogether, as has always been the case up to the present time.


It is proposed that the constitutional provision for independent Members in Parliament to form a group be repealed. This provision has become a destabilizing factor in our political history in that the Independent Members are not really bound by any party constitution to the Independent Grouping and therefore, vulnerable to shifting from one group to another. This needs to be done in the national interest for political stability in our nation.
Constitutional Provision for Limitation of Political Parties

Currently, there is no provision in the Constitution for establishment of Political Parties. So called political parties seem to come alive only during elections, but then go into hibernation until the next round of elections after four years. This practice contributes to the political instability that we have been experiencing in the country because of lack of strong political parties. In other democratic countries that practice the same system that we have, political parties have developed over long periods of time to what they are now. In our situation, there needs to be a quick fix and to do that we need to legislate for a certain number of political parties only to contest in elections for over a period of, say, twenty years. Any candidate elected under a certain party during the elections who crosses the floor of Parliament after the elections will automatically lose his/her their seat and a bye-election held for that seat. The defected member will not be eligible to contest in such bye-election. This provision is absolutely necessary to provide political stability and to nurture a steady political party system in our nation.

Restrictions on Freedom of Movement

Section 14 of the Constitution provides for freedom of movement throughout Solomon Islands and the right to reside in any part of the country. It is proposed that this freedom of movement will not be interfered with, but when it comes to the question of any person from another State wishing to settle in another State, the intending settler must comply with the restrictions imposed under the Federal and States laws and traditional norms and practices of localities within the States. The restriction will apply to settlement on both customary and alienated land.

Alienated and Customary Land

It is proposed that all alienated land, leased or perpetual will, in the first instance, be transferred to the States. The States will establish and identify the bonafide owners of those lands and transfer them back to such owners. Should the States want such lands for development purposes, then a lease agreement will have to made between the States as lessee and the customary landowners, as lessors. Any disputes arising from conflicting claims will be dealt with by the States. The states will pay the landowners fees for the use of their land for whatever development. Proper Lease Agreements will have to be established. In this transaction, all alienated land will be reverted to customary ownership. The state will be obliged to pay the landowners under the lease agreement between the landowners and the States. All customary land will be protected under the States respective Constitutions. No voluntary purchase of customary land by non-indigenous and outsiders should be permitted. Commercial developments should be made with lease agreements between the Developers/Investors and the Landowners. The perception that lease agreement is unsafe for investors is unreal. There are examples of existing lease agreements that work perfectly well between the parties involved.
15 Petroleum and Minerals

Petroleum and minerals found on any land will be treated as part of that land and therefore, explorations for such commodities will be done under the ownership right of the traditional land owners. The current legal situation where the Crown owns anything below 6 feet will be done away with and ownership right will be transferred to the landowners. Any benefit derived from exploration of petroleum and minerals will be shared among the landowners, the investor and State Government using a mutually acceptable formulae to be worked out.

16 Protection from Deprivation of Property

Section 8 of the Constitution provides for protection from deprivation of property of any person. Experiences have shown that after court litigation in customary land cases, successful litigants have, in some cases, come to regard themselves as personal owners of those lands, when in fact customary land is still owned by a tribe or clan. However, in other customary land tenureship, inheritance, for example, in the case of Polynesian customary land tenureship, land ownership is vested in that person who inherits that particular customary land who then passes it on to his heirs and successors.

Any person who is deprived of his right to property must be fairly compensated and must have recourse to the High Court.

17 Court System

It is proposed that Federal Government and State Governments will have their separate courts system, but there will only be one Appeal Court, which is to be called the Supreme Court at the Federal level. The establishment of the court system is basically available in the Provinces, but need improvement in terms of provision of qualified and experienced courts officials such as Magistrates, housing and finance for running costs.

18 Public Services

The Federal Government and the respective State Governments will have their own Public Services. Secondment of staff from one level to the other will be permitted under special agreement. The basic infrastructures are already in the Provinces. What is required is proper upgrading of the staff either through training or replacement with qualified people. Funds will need to be raised locally, in the States, to service the States Public Services.

19 Police Forces

The Federal Government and State Governments will have their own Police Forces. The States will need to fund their own Police Forces with revenues raised locally. Federal
Government will continue to maintain a small Police Force to keep law and order at the Federal level wherever its seat is physically located.

20  Health Services

It is envisaged that the States will take over the present Health Services and fund them jointly from their own revenues and funds from the Federal Government. The Federal Government will continue to have its own Health Services at the seat of the Federal Government.

21  Education Services

The States will have their own education services financed by funds raised within the States. How far they can provide education for their citizens is a matter that needs to be negotiated between the Federal Government and States. However, curriculum development and the provisions of higher education such as tertiary education (University etc) will remain a responsibility of the Federal Government to ensure uniformity of academic and technical standards throughout the nation.

22  Right to Education

This is a new provision which will be included in the new Constitution. It will have the effect of conferring on every child the right to have access to appropriate education. It is therefore obligatory on the Federal Government and State Governments to ensure this right is exercised by each child in the schools owned and run by each respectively and to what levels of education, is to be paid for by the Federal or State Governments. Failure by the Federal or State Government to avail this Right to Education to every citizen’s child as required will result in liabilities being imposed on Federal or State Government. This right also imposes a duty on the child’s parents or guardians to make sure that the child attends school and failure by the child’s parents or guardians will result in penalties being imposed on them.

23  Federal Governments Services

The Federal Government will continue to provide normal services at the Federal level, but at a reduced volume as most of the functions will be decentralized to the States.

24  Transitional Period

We are hopeful that the passage of the State Government Taskforce 2001 Report will pave the way for the introducing of the New Constitution in August Parliament Meeting. There will be a transitional period after the passage of the New Constitution. This will vary from Province to Province. The bigger and relatively developed Provinces will take a shorter transitional period than the smaller and less developed Provinces.
During the transitional period, the Federal Government will continue to assist the Provinces until they are ready to take on full autonomy from the Federal Government. However, the political set up will be in place as soon as the New Constitution is passed and brought into effect. That is, the 9 States will have the legal recognition of their status as States.


There are sections in the current Constitution which the SGFT 2001 Report is silent on. These shall be adopted in the new Constitution with necessary modification where appropriate. More appropriately, these are listed under Appendix VI of the SGTF 2001 Report (pages 215-220). It is necessary to point out also that the Taskforce Terms of Reference did not mandate it to cover issues above and beyond those dealt with in the Report and Recommendations of the 1987 Constitutional Review Committee.

STATE GOVERNMENT TASKFORCE 2001

18th March 2002