

Public Land Governance in Solomon Islands

By Shaun Williams¹

In countries where a large proportion of the total land area is held customarily, reform questions around land and development often tend to focus on the customary estate. Evidence from Solomon Islands suggests that a focus on public land holdings, even when they are relatively small in land area, can yield outsized benefits. Publicly owned land regularly includes economically valuable land and urban land on which development pressure is high. In Solomon Islands, as much as 10 percent of GDP may be affected by how effectively urban public land is governed.



In Honiara, urban land is public land.

Throughout the developing world, the poor management of publicly held land has a profoundly negative impact on the poor. This briefing note examines this problem in the Pacific nation of Solomon Islands, where the colonial land legacy and the postindependence regulation of immovable property were particularly consequential. Using estimates of urban contributions to GDP and the share of GDP provided by land transactions, an estimate can be made of the economic significance of public urban land governance. Recent urban valuations, actual rent revenues and estimates of arrears, actual expenditures, and estimates of rents paid out (see box below) provide an estimated current rate of return to public land.² After a description of the previous government's plans to address the poor performance of the past, the note concludes with a suggested complementary strategy for how the World Bank, including Justice for the Poor³ and other development partners, could assist the current government in addressing this challenge.

Significance of Public Land Governance

Poor governance of public land within the Pacific region results in governments losing significant amounts of economic

rent that could otherwise be spent on the public services upon which the poor depend. These foregone rents are frequently being captured by urban elites and native and nonnative entrepreneurs, the patrons of ineffective (and in some cases corrupt) administrators who secure opaque and uncompetitive first-time grants of long, fixed term (most commonly for 75 years) leases out of the publicly owned, perpetual estates, which they can subsequently develop or warehouse. The latter practice restricts the supply of land, thereby inflating urban land prices and contributing to housing's becoming unaffordable for the poor and for low- to middle-income earners.⁴

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² Estimates are used here because accurate records are inaccessible or unavailable—the broader governance implications of which are taken up below.

³ Justice for the Poor in Solomon Islands is a World Bank research and development program, part of a collaboration between Australia's Agency for International Development (AusAID) and the World Bank's East Asia and Pacific Justice for the Poor Initiative.

⁴ Henry George, *Progress and Poverty: An Inquiry into the Cause of Industrial Depressions and of Increase of Want with Increase of Wealth* (New York: Robert Schalkenbach Foundation, 1879). See also K. Hoff, "Land Taxes, Output Taxes, and Sharecropping: Was Henry George Right?" *World Bank Economic Review* 5, no. 1 (1991): 93–111.

The economic injustice resulting from these twin practices is something that governments in the region could do more to redress. Improving the governance of their own land is within the (albeit limited) capacity of regional governments, whereas “improving” the governance of the remnant customary land and attendant natural resources tenures has proved to be currently beyond many states and, when attempted, has had limited social or economic benefits.⁵

The Colonial Legacy and Current Public Land Administration Framework

Several governments in the Pacific have recently come to realize that not all their problems with respect to land administration and management are related to customary land.⁶ While public land in most countries in the region is just a fraction of the area of land that is managed by its owners in custom, it is invariably the most valuable and strategically located

Government is the top landowner as measured by SBD (\$) value of public land.

The 2010 Unimproved Capital Value of all land within the Honiara Town Council boundary has been estimated as \$2.46 billion. Approximately **\$2.1 billion** of this is believed to be public land subject to Fixed Term Estates. No one knows the value of public land outside Honiara.

And government is the biggest landlord as measured by number of tenants.

It is estimated that there are currently approximately **7,000** tenants who hold Fixed Term Estates over public land in Honiara alone. No one knows the total number of public land tenants throughout the country.

But government is not charging high enough rent.

Even at current, extremely low rents, in 2009 the government should have collected at least **\$3.2 million** from lessees of public land just in Honiara. However, that would have yielded a rate of return from public land in Honiara of only **0.181 percent per annum**, much lower than for other landlords.

Nor is government collecting the rent.

In 2009, the government collected only \$2.8 million in rent from public land *across the whole country*. The rate of return from public land across the country must be even lower than for Honiara. Arrears of rent owing to the government by public lease tenants are approximately \$24 million.

Yet government is the biggest subtenant as measured by SBD rent paid out.

Annually the government pays its tenants approximately **\$100 million** per annum in rent to sublease back its own public land for government offices and facilities. Annual rent rebates, rental subsidies (also paid to public land tenants), and maintenance on public servants' housing are approximately **\$50 million**.

land. This was the land that was selected for expropriation out of indigenous estates by colonizing metropolitan powers for economic exploitation by their client investors and settlers. Despite preindependence rhetoric, most of this land has subsequently been retained by many postindependent states.⁷

As a British Protectorate from 1893 until 1978, Solomon Islands customary land ownership was largely undisturbed,⁸ except for the notorious practice of allocating “waste land” for use as industrial plantations.⁹ Since 1912, alienation of land from customary ownership has been the exclusive prerogative of government.¹⁰ Prior to this imperial legislative reform, some of the best land in the country had been acquired directly from customary land owners by traders, planters, and speculators. Subsequently, with the passage of the *Land and Titles Act* [Cap 133] in 1969, these use certificates and “bush” titles were converted into fixed term leases granted by the Protectorate.

Real interests in land in newly independent Solomon Islands were restricted by the new land law to customary land, perpetual estates, and fixed term estates. Public lands are vested as perpetual estates in the Commissioner of Lands¹¹ and held in trust by her for the benefit of the Solomon Islands Government. Private property in land, other than customary land, is created by the commissioner making a grant out of a perpetual estate over public land.¹² These derivative interests, technically terms of years, are called Fixed Term Estates in the relevant legislation. The Commissioner of Lands is also responsible for approving all transfers of Fixed Term Estates and for approving long subleases.

⁵ See R.D. Singh and M. Reddy, “Corporate Governance in Fiji’s Native Land Trust Board,” *Pacific Economic Bulletin* 22, no. 2 (2007): 36–52; and also “Fiji Land Board Seeks \$13 Million In Back Rent,” *Pacific Island Report*, September 27, 2010.

⁶ See Vanuatu Council of Ministers, *Decision 60/2010: Stop the Sale of Public Land in the Two Main Cities, Port Vila and Luganville*; and “Govt Lost \$24 m in Dues,” *Solomon Star*, October 1, 2010, 3.

⁷ *Vanuatu Land Reform Regulation* 1980.

⁸ This is in contrast to British colonies, where right of conquest vested sovereignty over all colonial territory in the Crown.

⁹ *Waste Land Regulations* (WPHC 240/98: KR no. 1 of 1904) defined “waste lands” as “land which is not owned, cultivated or occupied by any native or non native.” Most of lands declared as “waste land” under these regulations were inspected *ex ante* by Resident Commissioner Charles Woodford from the deck of his cutter. Author Judith Bennett wonders how the absence of owners could have been satisfactorily adduced from such a distance—surely an apposite example of how poor evidence generates even worse policy. See Judith Bennett, *Wealth of the Solomons: a History of a Pacific Archipelago, 1800–1978* (Honolulu: University of Hawaii Press, 1986), 104.

¹⁰ Bennett, *Wealth of the Solomons*, 135.

¹¹ Some, but not many, customary land owners have surrendered their customary interests in return for perpetual estates granted by the commissioner. See *Land and Titles Act 1996*, s60.

¹² The Ministry of Lands, Housing and Survey is the line ministry with direct responsibilities for land administration. The Commissioner of Lands reports directly to the minister. The corruption risks implicit in this arrangement of powerful semi-technical offices (with no supervisory boards/appeal mechanisms, etc.) coming directly under ministers were not foreseen by the architects of independence. See “Land Deals in Solomon Islands Could See Charges Laid Says Commissioner,” *Radio New Zealand International*, September 15, 2009, <http://www.rnz.com/pages/news.php?op=read&id=49135>.

The Commissioner of Lands, on behalf of the Solomon Islands Government, holds the perpetual estate interest in nearly all land in Honiara and in the eight provincial headquarters across the country. Similarly, almost all of the commercial agricultural land in Solomon Islands is publicly owned. Consequently, the Solomon Islands Government is currently the largest owner of perpetual estates and therefore the biggest landlord in the country (see box).

Benefits and Challenges of Good Land Governance

Improving land management and administration throughout Solomon Islands will be integral to any future development strategy. Globally applied rules of thumb suggest that land and building transactions typically comprise approximately 15–20 percent of GDP, 70 percent of which is usually generated in cities.¹³ As nearly all the traded property in Honiara and provincial towns consists of fixed term estates over public land, as much as 10 percent of GDP may be affected by how urban public land is governed.¹⁴ Firms and families hold fixed term estates over most—but not all—of this public land. All grants of fixed term estates are subject to weakly enforced development covenants, which, in combination with the absence of a capital gains or effective property tax, create distortional disincentives that prevent the market from reallocating these interests to more efficient users. In addition, the national accounts reveal that despite being the biggest landlord in the country, the government pays in excess of S\$100 million per annum rent to its own tenants (see box).

Unfortunately, despite its obvious economic and social significance, public land holdings have not been separately recorded since 1976, when the registration of title replaced the old system of registration of deeds.¹⁵ This amalgamation of registers meant that information about the extent, location, and value of public lands—the minimal information base that all property managers need—has become less accessible, constraining the capacity of officials to properly manage the government’s most important assets. For example, the distribution of economic and social returns from public land holdings cannot be accurately calculated or properly adjusted for inflation or for changes to market value over time. The World Bank’s land policy and administration anchor, the Agriculture and Rural Development Unit, has recently developed and successfully trialed a tool for assessing and monitoring governance of land in member countries. This tool identified the existence of an inventory as a prerequisite for the good governance of public land.¹⁶

However, work recently done by an internationally recruited valuer employed by the Honiara City Council has provided a crude estimate of the unimproved capital value of all public land in Honiara. Calculating the value of public land

outside Honiara will require further work on the Ministry of Lands, Housing and Survey’s existing database, which currently does not include important information fields like parcel areas or expiry dates of fixed term estates. Revenues from public land extracted from the public accounts reveal that the rents collected from public land throughout the country were very low.¹⁷ Lack of competitive bidding for first grants of long fixed term estates carved out of the publicly owned perpetual estate, statutory rent reviews that have been skipped, failure to maintain valuation rolls, and weak collection practices have all contributed to poor returns (see box).

The Strategy of the Solomon Islands Government

As a result of advice¹⁸ provided by Justice for the Poor, the new Solomon Islands Government is well aware of the importance of improving the administration and management of its lands. In a significant ministerial policy statement made during the inaugural meeting of the ninth parliament, an incisive program of land revenue enhancement was flagged by the new Minister of Lands, supported by the prime minister and the Minister of Finance of the incoming Solomon Islands Government. This proposed reform agenda was also endorsed by the Opposition spokesperson on lands, a former leader of the Opposition in the previous parliament, and other leading members of the Opposition.¹⁹ This bipartisan political support for reforming past mismanagement of public land augurs favorably for success in tackling this challenge even if the government, for whatever reason, should change before substantial results can be achieved.²⁰

Soon after taking office, the new National Coalition for Reform and Advancement Government launched a comprehensive Policy Statement.²¹ In addition to flagging several

¹³ This estimate is used here and frequently elsewhere because accurate, disaggregated GDP data are unavailable for Solomon Islands or for many other small island states.

¹⁴ Solomon Islands GDP in FY2009 was US\$658 million, giving it a ranking of 178 out of 192 countries. See <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>.

¹⁵ Public land is defined by the *Land and Titles Act 1996*, s2(1) as “land which is shown by the register to be vested for a perpetual estate in the Commissioner for and on behalf of the Government.”

¹⁶ “*Land Governance Indicator-12. Identification of public land and clear management*: Public land ownership is justified, inventoried under clear management responsibilities, and relevant information is publicly accessible

¹⁷ One of the major commercial banks operating in a prime location in the central business district of Honiara, for example, pays a rent for the site of less than US\$280 per annum.

¹⁸ Based on a joint analysis by the author and Solomon Islands officials.

¹⁹ *Hansard Parliamentary Debates*, National Parliament of Solomon Islands, September 30, 2010, http://www.parliament.gov.sb/files/hansard/9th_session/1st_Meeting/30th%20September%202010.pdf.

²⁰ Since independence, only the Sikua Government, 2007–2010, has served its full term.

²¹ *Ibid.*, Policy No. 4.1.1.

ambitious, “fundamental” reforms, including constitutional amendments to ensure that customary land is made more “accessible” and “available” (which would be very difficult to achieve),²² and several radical (and potentially destabilizing) social reforms such as the codification of customary law,²³ the Policy Statement also sets out some more feasible house-keeping goals, tax reform aimed at raising more revenues and diversifying the revenue base,²⁴ and efforts to take stock of underused public land.²⁵

The National Coalition’s Policy Statement was followed by a Policy Translation Document,²⁵ which highlights the key strategic actions that will be implemented by respective ministries to achieve the government’s overall policy objectives. The strategies identified therein include nationwide consultations to seek citizens’ views on how government could better use its own lands²⁶ and the establishment of a taskforce, with donor support, “to reform land rents and valuations and enforcement to make rates (*sic*) a source of Government revenue and to ensure that there are incentives in place for prime land to be used efficiently rather than hoarded or purchased by speculators.”²⁷

The World Bank’s Potential Support

The World Bank’s global land programmatic experience demonstrates that land administration and management are interconnected functions, therefore representing a “whole-of-government” challenge. Thus catalyzing interagency coordination will be a main focus of any future technical assistance provided by the World Bank. All public sector agencies are major users of public land, not just for their operational sites but also because of the universal entitlement of civil servants in Solomon Islands to public housing assistance. This housing assistance is coordinated through the Public Services Commissioner and legally mandated to the Office of Prime Minister and Cabinet, but budgeted through individual ministerial allocations.²⁸

The World Bank Group’s current recommended strategy for Solomon Islands identifies “improving public administration and management of public resources” as a strategic area for future support. It also notes that better information about, and improved management of, public land and natural resources have the potential to contribute to growth in the short, medium, and long term.²⁹

Recent research from the World Bank argues that land costs and availability are already constraining business growth in Honiara. In addition, the increased mobility of people and goods, as well as the development of agglomeration economies, will depend on the more efficient use and allocation of urban and rural land.³⁰ Poor town planning and zoning and limited infrastructure investment mean that

substantial urban and rural areas have no access to electricity, roads, or water, limiting potential economic use. Various government agencies holding land have limited incentives to ensure its efficient utilization (see box above).

The Justice for the Poor program focuses on improved government capacity for evidence-based decision making and policy dialogue in the context of legal and institutional complexity. As part of this program, Justice for the Poor has undertaken public land administration and management stakeholder mapping that demonstrates the wide range of agencies and stakeholders that will need to engage in responding to the impacts of maladministration and mismanagement (see table below). The scale of effort that will be required to fix these problems necessitates a new whole-of-government, public-private partnership approach. The institutional architecture needed to address the issues under consideration by the new government includes parliamentary oversight, through the Public Accounts (Standing) Committee or a new select committee; government leadership in the form of a Cabinet Subcommittee for Public Land; and, most importantly, a public-private partnership structure, such as a Public Land Administration and Management Implementation Task Force, comprising the permanent secretaries of key ministries,³¹ land services professionals, private sector representatives, and community leaders. Such a body would bring together the country’s major landlords and tenants, providing a forum for disseminating research and technical advice and for stakeholder participation in crafting a mutually beneficial way forward.

To realize this comprehensive land reform menu, or any other reform agenda the recently elected government may devise, objectives will have to be prioritized, sequenced, and resourced through the formulation of a joint agency, multi-stakeholder strategic implementation plan. The World Bank is in a position to contribute to that goal by assisting the lead

²² *Ibid.*, Policy No. 4.2.1.

²³ *Ibid.*, Policy No. 4.3.4.1 (e).

²⁴ *Ibid.*, Policy No. 5.1.11.

²⁵ National Coalition for Reform and Advancement Government, “Policy Translation Document,” January 2011, unpublished.

²⁶ *Ibid.*, 34.

²⁷ *Ibid.*, 50.

²⁸ The entitlement is prescribed in *General Orders* Chapter H [103] and is estimated to cost the Solomon Islands Government in excess of SI\$50 million per annum. See box above.

²⁹ World Bank, “Interim Strategy Note for Solomon Islands for the Period FY10–FY11,” Report no. 53496 (Washington, DC: International Finance Corporation, 2010), <http://go.worldbank.org/ENGJBN3FP0>.

³⁰ World Bank, “Solomon Islands Growth Prospects – Constraints and Policy Priorities,” *Discussion Note no. 57795* (Washington, DC: World Bank, 2010), <http://go.worldbank.org/VHEGNYOJ0>.

³¹ The current government has already announced its intention to create a smaller, revenue-focused, interministerial taskforce comprised of officials from the Ministry of Lands, Housing and Survey, Economic Reform Unit, Inland Revenue Division, and Treasury Department of the Ministry of Finance and Treasury, Attorney General’s Chambers. See National Coalition for Reform and Advancement Government, “Policy Translation Document,” January 2011, 50.

Table 1: Public Land Stakeholder Map

Agency	Responsibility
Ministry of Lands, Housing and Survey	Line ministry
Ministry of Justice and Legal Affairs	Includes: Office of the Registrar General, within which the Registrar of Land Titles is located; Attorney General's Chambers, which have responsibilities with respect to dealings in public property, contracting on behalf of the Solomon Islands Government; and Solicitor General, which represents the Commissioner of Lands and the Solomon Islands Government more generally in court cases involving land and rents.
Ministry of Finance and Treasury	Accounts for management of and revenues from public assets.
Ministry of Provincial Government	Supervises and supports provincial governors who can also hold perpetual estates in trust on behalf of the Solomon Islands Government and can grant fixed term estates out of them, notably in provincial headquarters.
Ministry of Infrastructure	Delivering land services such as roads.
Ministry of Home Affairs	Responsible for local government and therefore, for "secure(ing) consistency and continuity in the framing and execution of a comprehensive policy for the preservation of amenities and the orderly development of land other than customary land throughout Solomon Islands in accordance with Local Planning Schemes." ^a Town and Country Planning Boards are established under the relevant act for each province and for Honiara City. ^b
Ministry of Public Service, Prime Minister & Cabinet	Legally mandated to oversee universal housing entitlements of public servants.
Ministry of Agriculture	Large-scale public holdings in agricultural land.
All other public sector agencies	Major users of public land, not just for their operational sites but also for staff housing budgeted through ministerial allocations.
Land professionals	Lawyers, valuers, surveyors, and real estate agents provide professional services to landowners, tenants, buyers, and sellers.
Private sector	Solomon Islands Chamber of Commerce and Industry represents most commercial users of public land, including commercial banks.
Community leaders	Church leaders and customary authorities, including chiefs, women, and youths.

^a Town and Country Planning Act [Cap 154].

^b Ibid., s4 and s5.

land agency in developing, with other stakeholders, evidence-based policy options for the new administration, options that focus on innovative institutional coordination architecture to support strategizing on the scale required.

Other Justice for the Poor Briefing Notes

- *Leasing in Vanuatu: Findings and Community Dissemination on Epi Island* by Milena Stefanova, Raewyn Porter, and Rod Nixon, Volume 5, Issue 4, November 2010
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What is Justice for the Poor?

Justice for the Poor (J4P) is a global research and development program aimed at informing, designing, and supporting pro-poor approaches to justice reform. It is an approach to justice reform that:

- Sees justice from the perspective of the poor or marginalized
- Is grounded in social and cultural contexts
- Recognizes the importance of demand in building equitable justice systems
- Understands justice as a cross-sectoral issue

Justice for the Poor in Solomon Islands is part of the AusAID-World Bank collaboration on the East-Asia and Pacific Justice for the Poor Initiative. This Initiative includes work in Solomon Islands, Vanuatu, Papua New Guinea, Timor-Leste, and Indonesia, as well as on regional thematic activities.

Contact us at j4p@worldbank.org and visit our Web site www.worldbank.org/justiceforthe poor for further information.