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On behalf of:

Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety

of the Federal Republic of Germany

# Solomon Islands:

# Legal Framework for REDD+

SPC Secretariat of the Pacific Community

giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

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On behalf of:
Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety
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## Executive summary

Solomon Islands is an archipelago of more than 1,000 islands with a population of approximately 515,870, of which about 81% live in rural areas. Rural people are highly reliant on forest products and services for subsistence. Over 95% of the population is indigenous (from Melanesia), but the country is still quite ethnically diverse with about 120 indigenous languages being spoken (UNOHCHR 2012:32).

The natural forests of the Solomon Islands cover approximately 2.2 million hectares, or 80% of the nation's land base of 28,890 km² (**FAO GFRA 2010**:9). Of this, just under 40% (835,000 hectares) has been identified as commercially viable (draft *National REDD+ Roadmap 2014*:11). The dominant form of land tenure in forested areas is customary land tenure.

The draft *National REDD+ Roadmap 2014* (pp. 11-12) has identified unsustainable commercial logging as one of the main drivers of deforestation and forest degradation. Recorded commercial log exports of close to 2 million $m^3$ are up to eight times the estimated annual sustainable cut of 250,000 - 300,000$m^3$ per annum. The recent development of re-entry logging in already logged-over areas, the use of discretionary logging permits permitting logging in environmentally sensitive areas, and poor enforcement of the already weak forest legislation, have all contributed to forest degradation.

While Solomon Islands already has some legal elements in place which could facilitate a national REDD+ programme, many challenges remain. Existing legal mechanisms that are well-placed to support REDD+ activities, include:

- the ***Customary Land Records Act*** **[Cap. 132]** which could facilitate the identification and recording of customary rights and interests over customary land, including carbon rights
- the recently introduced ***Protected Areas Act 2010***, which offers a strong legal mechanism for protecting land areas at the community level.

Legal elements which create a challenge for the implementation of REDD+ include:

- the legislation that regulates the forestry sector, the ***Forest Resources and Timber Utilisation Act*** [Cap. 40], which is outdated and incomplete
- the uncertainty associated with the dominant form of land tenure, unregistered customary land, is often subject to multiple and overlapping claims by different tribes, with land disputes being common
- the lack of effective grievance and redress mechanisms through both the customary system and the state justice system, the latter of which has almost ceased to function in recent years, particularly at the local level.

In relation to safeguards for REDD+, a comprehensive legislative framework is in place in the ***Environment Act 1998*** which could form the basis for an effective social and environmental impact assessment safeguard. However legal frameworks are lacking for other important safeguards such as free, prior and informed consent, ensuring gender equity and equality, and measures to reduce the risk of corruption.

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# 1 Constitutional framework

Solomon Islands gained independence from British rule in 1978. The country has a parliamentary democracy with a constitutional monarchy, governed by a Prime Minister and National Parliament. There are nine provinces – Central, Choiseul, Guadalcanal, Isabel, Makira-Ulawa, Malaita, Rennell-Bellona, Temotu and Western – all with provincial assemblies, each led by a premier. Provincial Governments are empowered to make laws (referred to as Provincial Ordinances), including laws in relation to forests and environmental issues.

## 1.1 Land ownership

To avoid land being permanently lost to foreign ownership, the **Constitution of Solomon Islands** provides that only a Solomon Islander or a limited class of people (e.g. companies registered and majority owned by Solomon Islanders) can permanently own land (Art. 110).

## 1.2 Recognition of customary law

Customary laws in Solomon Islands are diverse and vary from place to place. Customary law is recognised as a source of law under the **Constitution**, although it can be overridden by the Constitution or an Act of Parliament (s. 144; Sch. 3). The details as to how customary law is to be recognised in practice are to be provided by Parliament, although to date there is no legislation in place (the ***Customs Recognition Act 2000*** is not yet in force). The effect of this constitutional provision, together with the ***Land and Titles Act*** [Cap. 133], is that customary law forms the basis for land and forest ownership in Solomon Islands.

Box 1: Legal resources produced by LALSU

The Landowners' Advocacy and Legal Support Unit of the Public Solicitor's Office has produced a wide range of publications to assist landowners, including fact sheets, frequently asked questions and toolkits, on the following topics:

- Main environmental laws of the Solomon Islands
- Timber rights and forestry
- Provincial Ordinances
- Protected Areas
- Mining
- Forming landowners' associations and community-based organisations
- Recording customary rights over land
- Environmental Impact Assessment
- Court processes for land disputes.

*Website:* ***http://www.pso.gov.sb/***

Reflecting its history as a British colony, the laws of the United Kingdom (including common law) remain in force, unless they are inconsistent with the **Constitution**, Solomon Islands legislation, customary law or where a court declares them to be "inappropriate to the circumstances of Solomon Islands" (Sch. 3).

## 1.3 Human rights and access to justice

The **Constitution** protects a range of human rights (Chapter II). Of particular relevance to the development and implementation of REDD+ is the right to the protection of property or any interest or right in property, as well as the right not be unjustly deprived of property without compensation (Arts. 3(c) and 8). These provisions are sufficiently broad to protect the rights of landowners where REDD+ activities may affect their land, forests and carbon rights.

The Public Solicitor's Office **(PSO)** is established under the **Constitution** to provide legal aid, advice and assistance to persons in need (Art. 92). The Landowners' Advocacy and Legal Support Unit **(LALSU)** within the PSO provides free legal advice, education and representation to customary landowners on issues regarding

land, conservation and the sustainable management of resources including forestry (see *Box 1: Legal resources produced by LALSU*).

# 2 Forest sector and REDD+

With support from the UN-REDD Programme, Solomon Islands has prepared the following draft documents:

- National REDD+ Readiness Roadmap (draft, February 2014).
- Guidelines for Developing Stakeholder Engagement for REDD+ within the Solomon Islands, (draft, February 2014)
- Guidelines on the Development of REDD+ Safeguards within the Solomon Islands National REDD+ Process (draft for discussion, February 2014).

These documents are yet to receive Cabinet approval or formal endorsement by the Solomon Islands Government.

Capacity to undertake REDD+ activities in Solomon Islands is also being strengthened by the SPC/GIZ Regional Project *"Climate Protection through Forest Conservation in Pacific Island Countries"*. Under this project, SPC/GIZ is supporting personnel engaged in REDD+ in Solomon Islands to participate in regional REDD+ capacity building activities, and is also collaborating with various national and international non-government organisations, such as Live and Learn Environmental Education, to investigate the feasibility of REDD+ demonstration activities in various locations.

Solomon Islands has opted for a national approach to REDD+, with national carbon accounting. Pending the development of its national REDD+ strategy, Solomon Islands is supporting the development of a project-based approach to REDD+ which can be integrated into its national framework at a later date. However, the legal framework for REDD+ projects is still very unclear. Indeed two recent feasibility studies commissioned by SPC/GIZ identified the lack of legal clarity for REDD+ projects as one of the most significant barriers to the development of stand-alone REDD+ projects in Solomon Islands (**Stanley 2013, REDD Feasibility Study for East Rennell** :18; and **Stanley 2013, REDD Feasibility Study for Tetepare Island**).

## 2.1 Drivers of deforestation and forest degradation

The natural forests of the Solomon Islands cover approximately 2.2 million hectares, or 80% of the nation's land base of 28,890 km² (**FAO GFRA 2010**: 9). Of this, just under 28% (604,000 hectares) has been identified as commercially viable, given that logging regulations restrict logging to slopes of less than 40° and elevations below 400 metres (**UN-REDD Programme 2011:6**).

The draft *National REDD+ Roadmap 2014* (p. 11-12) has identified the main drivers of deforestation and forest degradation as being:

- **Unsustainable commercial logging:** Recorded commercial log exports of close to 2 million m³ are up to eight times the estimated annual sustainable cut of 250,000 - 300,000m³ per annum. This situation is perpetuated by a high economic reliance on timber revenue as a source of national and local incomes. Logging is predominantly done on a 'legal' basis with companies possessing licences to cut within designated areas. However many of these licenses lack complete paper work, or were agreed to without proper landowner consent, rendering them potentially invalid. Forest degradation is also being caused by:
    - **Re-entry logging:** Increases in the value of timber have also led to some re-entry logging in areas which have been logged within the last decade, causing significant habitat destruction and adversely affecting the potential for natural forest recovery.

- **Discretionary logging permits:** The pressure to facilitate logging has also led to the issuing of discretionary permits by the Commissioner of Forests for areas of forest which would usually be protected under the **Code of Logging Practice** (e.g. areas above 400 metres), leading to the loss of approximately 16,800ha of forest since 2005.

- **Unplanned commercial logging:** Timber has been extracted from areas outside approved management plans and in breach of the **Code of Logging Practice**. It is estimated that since 2005, timber has been felled from 36,100ha of forest outside of legal concession boundaries.

- **Weak forest legislation and poor governance in the forest sector:** The legislation regulating forestry, the ***Forest Resources and Timber Utilisation Act*** **[Cap. 40]**, is outdated and incomplete. It does not provide a framework to guide the long term sustainable management of forests. The high level of reliance on logging revenues to generate national revenue and foreign exchange, coupled with local-level demand from 'big men' who are keen to receive logging royalties, has placed significant pressure on administrators to issue logging licences above the sustainable cut (see *Box 2: The "big man" leadership model, landowner companies and foreign logging operators*).

Box 2: The "big man" leadership model, landowner companies and foreign logging operators

The rapid expansion of logging in Solomon Islands from around 1980 was related to legislative changes in the form of the ***Forest Resources and Timber Utilisation Act*** that enabled logging to expand onto customary land and a shift in the ownership of the logging companies operating in the Solomon Islands away from the United Kingdom and Australia toward Japan, Malaysia and the Republic of Korea. These two factors, in concert with the "big man" style of politics and leadership, have since given rise to a pervasive culture of exploitation and corruption in the forest sector.

Although hereditary chiefly systems existed in some areas, in pre-contact times the dominant form of customary leadership was the "big man" model. A big man's success depended in large part on his ability to organise labour and mobilise resources, particularly pigs and root crops, to generate and distribute wealth, thereby creating and maintaining extensive networks of obligation and reciprocity. It is argued that this model which is built on networks of obligation and reciprocity affects the behaviour of elected representatives, government officials and village big men.

Since the early 1990's, there has been a proliferation of landowner companies to facilitate logging operations on customary land in response to the introduction of an export tax exemption for them. Under this structure, big men and other educated elites in local communities create a landowner company and contract the services of foreign logging companies to carry out timber felling, transport and marketing. By 2005, there were an estimated 24 foreign companies working under contractual agreements with 89 local companies or licence holders.

Foreign-owned logging companies have consistently captured the bulk of economic rent from forest resources. This has been achieved through various tax avoidance practices, namely, the excessive use of export duty exemptions in which foreign companies often fail to pass on the full amount of the tax exemption to landowner companies; and the successful lobbying of government to keep the determined value of logs below international benchmarks, thus reducing the amount of export duty that must be paid.

*Source: Allen 2011,* ***The Political Economy of Logging in Solomon Islands.***

## 2.2 Administrative arrangements

The two ministries that will play key roles in the development and implementation of REDD+ in Solomon Islands are:

- The **Ministry of Forestry and Research**

- The **Ministry of Environment Climate Change, Disaster Management and Meteorology (MECDM).** This ministry is the focal point for the 1992 United Nations Framework on Climate Change and the 1992 Convention on Biodiversity. Through the Division of Environment and Conservation sits within the MECDM, this ministry is responsible for the implementation of the ***Environment Act 1998*** and the ***Protected Areas Act 2010***.

While the national institutional management arrangements for REDD+ have not yet been settled, the draft National REDD+ Roadmap 2014 anticipates that they will include:

- A **National REDD+ Committee** made up of government, NGOs, private sector and indigenous representatives.
- A **National REDD+ Implementation Unit** within the Ministry of Forestry and Research to lead REDD+ activities
- A **National REDD+ Focal Point** to be established within MECDM to lead REDD+ activities Solomon Islands the ministry and support cross-cutting activities.

# 3 Land, forest and carbon rights tenure

## 3.1 Land tenure

The majority of land in Solomon Islands (86%) is held under customary tenure, whilst the remaining 14% is alienated land (see Fehler! Verweisquelle konnte nicht gefunden werden.). Most forest area is found on customary land.

Box 3: Land tenure categories in Solomon Islands *(source: Corrin 2012:23)*

| Land tenure | Sub-category | % of land | Limitations on title |
|---|---|---|---|
| **Customary land** | | 86% | Cannot be alienated except to a Solomon Islander |
| **Alienated land** | Public land | 14% | |
| | Perpetual estate | | Can only be held by a Solomon Islander, the Commissioner of Lands, or a limited list of persons including a Solomon Islands registered company with at least 60% of shares owned by Solomon Islanders. |
| | Fixed-term estate | | 75 years (99 years if the land is public land) |
| | Leasehold | Minor | 75 years |

### 3.1.1 Alienated land

There is no freehold title in Solomon Islands. Land can only be held as perpetual estate (restricted to Solomon Islanders), fixed-term estate (not exceeding 75 years), or leasehold (***Land and Titles Act***, s.112, 113, and Part XI). Land can only be converted from customary (tribal) land by selling or leasing it to the Commissioner of Lands or a Provincial Assembly (Part V).

### 3.1.2 Customary land

The system of customary (tribal) land tenure has been preserved since Independence. The law provides that customary land is to be occupied, used and disposed of in accordance with current customary usage (s. 239(1), ***Land and Titles Act***). As there is no system which allows for customary land to be surveyed and registered, it is often very difficult for outsiders to identify land boundaries and to identify who 'owns' the customary land (see *Box 4: Customary land 'ownership' in Solomon Islands*). Land disputes are common.

Box 4: Customary land 'ownership' in Solomon Islands

The Western legal concept of land and forest 'ownership' is based on assumptions regarding property which do not reflect the communal nature of customary land tenure in Solomon Islands. Customary land in Solomon Islands is held communally, by a tribe, which includes a clan or line of descendants. There may often be no single landowner group. More often, there are multiple groups which hold multi-layered rights to ownership and use of land and forest. For this reason, the term 'ownership' has been placed in inverted commas in this paper.

To emphasize the communal nature of land tenure under customary law, the Solomon Islands Law Reform Commission has recently recommended that all legislation dealing with land should be amended to use the term "tribal land" rather than "customary land", and that existing legislative frameworks be amended to formally recognise tribal ownership of tribal land.

*Source:* ***Corrin 2012****:27-28; and* ***Solomon Islands Law Reform Commission 2012:18 – 20****.*

### 3.1.3 Restrictions on transfer and dealing in customary land

There are very strong legal restrictions under the land law which restrict how customary land can be dealt with and disposed of. Only a Solomon Islander can 'own' customary land and interests in customary land (***Land and Titles Act*** , s. 241). Land (and interests in land) can only be transferred between Solomon Islanders according to custom, and any contract or agreement that purports to transfer land or affect an interest in customary land outside custom (e.g. to a non-Solomon Islander) can be declared void by the courts (ss. 240, 241).

In the context of REDD+, this provision could restrict the way in which contracts or emission reduction agreements between customary landowners and third parties (such as the government or a foreigner) can be made if the contract/agreement seeks to restrict the manner in which the land can or cannot be used or if the contract/agreement purports to dispose of carbon rights (**Corrin 2012**:25). Ordinarily, the granting of timber rights over customary land to a third party would also breach the prohibition on disposing of customary interest in land, but this is permitted because of a specific exemption under the ***Forest Resources and Timber Utilisation Act*** (s. 43).

The only way that land or interests in land can be transferred outside custom are through compulsory acquisition by the government for a public purpose (s. 71), or by leasing the land to the Commissioner of Lands or a Provincial Assembly (s. 60), after which it is then registered as a perpetual estate. Because of the risks to tribal groups of converting customary land tenure, and the time and cost involved, REDD+ activities which rely on this approach are unlikely to be acceptable to customary landowners.

## 3.2 Forest tenure

Where forest is found on customary land it is 'owned' in accordance with customary law (s. 239(1), ***Land and Titles Act*** ). However under customary law, ownership of land may be separated from the right to use land. This fragmentation of ownership and use rights has given rise to many disputes and much litigation in the forest sector where the legislative framework for timber use and extraction, the ***Forest Resources and Timber Utilisation Act***, which allows a person (or group) to grant timber rights over land even though they are not the 'owner' of the land (see Timber rights agreements below).

## 3.3 Carbon rights

Solomon Islands does not have a statutory framework for forest carbon rights or any reference to carbon 'ownership' in legislation. In the absence of legislation however, it is relatively clear that as the indigenous people of Solomon Islands own the land and forests under customary law, by implication they must also own the carbon rights in their forests (s. 239, ***Land and Titles Act***). Despite this, in any particular land area it may be difficult to identify who are the proper 'owners' of the forest carbon rights because multiple tribes or clans may have overlapping or competing claims to ownership and use of the land.

An analysis commissioned by SPC/GIZ of the legal framework for clarifying carbon rights in Solomon Islands identified that this problem could be addressed by using the ***Customary Land Records Act [Cap. 132]***, which allows for customary interests in land to be recorded (**Corrin 2012**). The Act could potentially be used to identify and record the 'ownership' of forest carbon rights where customary land is concerned (see *Box 5: The Customary Land Records Act*).

Box 5: The *Customary Land Records Act*

The ***Customary Land Records Act [Cap. 132]*** was passed by Parliament in 1994 to provide a mechanism for recording tribal land boundaries and customary rights and interests. Recording rights is a process which is legally distinct from the registration of legal interests over the title of land, as registration of rights would result in the loss of customary land tenure.

Under the Act, a customary land holding group can apply to have their right to control customary land (primary rights) recorded, along with the name of the person who is authorised to represent the customary land-holding group. Other groups or individuals may also have their use rights, such as their right to use land for food gardens or to access to timber arising from customary practices such as gift, reward and marriage, recorded over the same land (referred to as "secondary rights"). The **Solomon Islands Law Reform Commission (2012:18)** has recently made a number of recommendations to improve the Act, including changing its name to the "Tribal Land Records Act".

In any event, the Act is currently not functioning as the regulations and standard forms required to give effect to the Act (s. 21) have never been made, nor have the administrative bodies required to implement the Act, such as a Central Land Record Office and provincial Land Record Offices, been created. In the late 1990s, a Central Land Record Office was established, and some appointments were made, but the Central Land Record Office was burnt down during the "tensions" (civil disturbance) from 1998 - 2003 and was never re-established.

*Source:* ***Corrin 2012****: 39 – 41.*

## 3.4 Mangroves

Solomon Islands has reported mangrove forests of about 37,700 hectares (**FAO 2010**:8), although this figure could be as high as 60,200 hectares, making it the second largest area of mangroves in the Pacific after Papua New Guinea (**MESCAL 2013**:10).

Due to conflicting High Court decisions, it is unclear whether 'ownership' of the foreshore area below the high watermark belongs to the Crown (State) or remains under the control of customary landowners (**Corrin 2012**: 34). In response to this uncertainty, the Solomon Islands Law Reform Commission undertook an extensive inquiry into the issue, and in 2012 the Commission recommended that the ***Land and Titles Act*** be amended to clarify that land between the high water mark up to three nautical miles is in fact tribal land, not government land – a position that would more clearly reflect the current values and customs of the people of Solomon Islands (**Solomon Islands Law Reform Commission 2012:17**).

The main anthropogenic threats to mangrove ecosystems in Solomon Islands include: overfishing; overharvesting of mangroves for firewood, housing construction and boats; conversion of land for coastal developments, houses and agriculture; and use of mangrove areas as loading areas or "log ponds" for logging activity (**MESCAL 2013**:13).

While Solomon Islands does not have a dedicated legal framework for the protection and management of mangroves, a degree of legal protection is available under the following mechanisms:

- Since 1990, the felling and removal of mangroves from any land for commercial use without a licence has been prohibited under the **Forest Resources and Timber Utilisation (Protected Species) Regulations 1990**, although this does not appear to have arrested the general decline in mangrove forests over the period 1990 – 2010 (**FAO 2010**:18).
- Mangrove and tidal areas can be declared as marine protected areas under the new ***Protected Areas Act 2010***, providing strong legal protection against dredging, trawling, land-based pollution, logging and mining (s. 2; and **Protected Area Regulations** cll. 3, 48-57).

- The *Fisheries Act 1998* empowers Provincial Governments to make Ordinances to establish and protect marine reserves and to regulate and prohibit the destruction of mangroves (s. 10).

# 4 Legal framework for forestry

The main law regulating forest use in Solomon Islands is the *Forest Resources and Timber Utilisation Act [Cap. 40]*. Originally designed in the 1960s to facilitate logging on government land, the Act has clearly been inadequate to regulate logging on customary land. Despite being amended extensively over the past 30 years, the Act is still incomplete and very outdated. Numerous attempts to repeal and replace it with legislation to enable the sustainable harvesting and management of forests, including an open and transparent process for obtaining landowner consent, have all failed (see ***Fehler! Verweisquelle konnte nicht gefunden werden.***). The Act has also been very unpopular, triggering excessive disputes and extensive litigation between customary landowners, administrators and logging companies.

Box 6: A brief history of the *Forest Resource and Timber Utilisation Act*

The current *Forest Resources and Timber Utilisation Act* [Cap. 40] is based on the original forest legislation in Solomon Islands, the *Forest and Timber Act 1969*, which was introduced during the colonial period to regulate logging on Crown or government land. The *Forest and Timber Amendment Act 1977* introduced direct dealings between loggers and landholders, facilitating the logging of forests on customary land. This amendment introduced the very problematic distinction between landowners and those who own timber rights, one of the greatest weaknesses of Solomon Islands' forestry legislation. Following this legislative change, timber production levels started to increase quite sharply from 1980 on, and have remained above estimated sustainable production levels ever since. In 1984, the name of the *Forest and Timber Act 1969* was changed to its current name, the *Forest Resources and Timber Utilisation Act [Cap. 40]*.

Numerous attempts over the past 15 years to repeal the *Forest Resources and Timber Utilisation Act* and replace it with comprehensive forest legislation have all failed. The **Forests Act 1999** was passed by Parliament and received royal assent, but was never gazetted. Two further proposals to introduce comprehensive forest legislation, the Forests Bill 2004 and the Forests Bill 2013, have never been adopted by Parliament.

*Source: Allen et al 2012.*

## 4.1 Forest sector planning

There is currently no legal structure for forest sector planning at the national level in Solomon Islands. The *Forest Resources and Timber Utilisation Act* [Cap. 40] does not provide for the identification and protection of a national forest reserve or estate. Nor does the Act contain any legal mechanism for setting and enforcing a sustainable harvest yield.

## 4.2 Licences: commercial logging and milling

Timber felling can occur under one of two licences: a felling licence or a milling licence. It is an offence to fell trees or remove timber from any land for commercial purposes without a licence subject to some minor exceptions, such as where the timber is to be used as firewood or will not be milled (s. 4). Both types of licences are granted by the Commissioner of Forests (s. 5).

## 4.3 Timber rights agreements

Most commercial logging takes place on customary land. Where customary land is concerned, a logging company that wishes to export or process timber must first obtain the timber rights to an area before it can apply for a logging licence (s. 5).

Individuals or companies that wish to acquire timber rights over customary land must first obtain the Commissioner of Land's consent to negotiate with the Provincial Executive and the owners of the customary land (s. 7(1)). The Provincial Executive (before 1998 this was Area Council) determines whether the

landowners are willing to negotiate for the disposal of their timber rights, and if so, who is lawfully entitled to grant such rights. Landowners who disagree with the Provincial Executive's decision as to who is entitled to grant the timber rights, and who their proper representatives are, can appeal to the Customary Land Appeal Court (s. 10), although this can be very costly (see Dispute Resolution below).

The legal process for allocating timber rights is one of the greatest weaknesses of the forestry legislation. It is highly unsatisfactory as it has created a legal distinction between those who own the land, and those who own the timber rights, often allowing some individuals with tenuous or spurious claims to obtain the rights to timber and become the main beneficiary of the logging royalties (**Corrin 2012**). It has caused and excessive number of disputes within and between landholding groups and has enabled a limited number of individuals or "big men" in the community to collude with multinational logging companies to obtain an inequitable share of logging revenues.

Unless and until this serious deficiency in the Act is addressed the opportunity for abuse of the process for obtaining timber rights runs a real risk of undermining REDD+ efforts.

## 4.4 Plantations

Solomon Islands lacks a legislative framework to support the development and maintenance of plantation forestry at both the commercial and village levels. The out-dated ***Forest Resources and Timber Utilisation Act*** does not contain provisions on plantations.

The area under plantation is currently very small, with approximately 35,600 hectares of timber and oil palm plantations, most of which are on State land (Crown land). Small holder plantations run by family and community groups are estimated at 6,055 hectares, but government capacity to support their development is very limited (UN-REDD, 2013:26 - 27).

Difficulties in obtaining secure long term land tenure where customary land is concerned is a key constraint limiting the commercial development of plantations and agribusinesses such as oil palm. The two main commercial plantations, which make up 80% of all area under plantation, are operated in Western Province under long-term lease arrangements.

## 4.5 Implementation and enforcement

The ***Forest Resources and Timber Utilisation Act*** itself contains very limited enforcement provisions. It is an offence remove forest produce in contravention of the Act (s. 30). Licences and permits may be cancelled or suspended where there is a breach of the Act or the licence or permit conditions (s. 39). Enforcement officers, forest officers and police officers all have power to search and arrest persons they suspect may have breached the Act (s. 32).

Despite these powers, poor enforcement of the Act generally has been identified as a key governance issue preventing sustainable management of forest resources in Solomon Islands (**UN-REDD Programme 2011:6**). Companies are rarely fined or suspended or face licence cancellations despite generally poor (and sometimes illegal) logging practices. Communities have reported that police often fail to respond in response to complaints of illegal forest practices as they are considered to be partisan players (**Allen *et al***, 2012:54).

The volume of licences issued (over 300 were issued in 2012) also places strain on the ability of the Ministry of Forestry and Research and the Ministry of Environment Climate Change, Disaster Management and Meteorology to monitor forestry operations effectively, as they have very limited resources (draft *National REDD+ Roadmap 2014*). In its review of corruption risks in forestry in the Asia Pacific, Transparency International recently noted that there is an urgent need to increase human resources and operational budgets to monitor different stages of logging operations, including conducting timber inventories, monitoring the declaration of logging volumes and checking export permits, and ensuring sufficient resources (such as fuel and boats) to carry out enforcement and compliance operations (**Transparency International 2013**:13).

Solomon Islands has had a logging code of practice since 1996, revised in 2002: **The Revised Solomon Islands *Code of Logging Practice* (May 2002) (Code)**. The Code is intended to protect environmentally sensitive areas from being logged by prohibiting logging in Protected Areas (including areas that exceed 400 metres above sea level), and in Excluded Areas (including buffer areas near villages and streams). However the Code allows the Commissioner of Forest s to issue discretionary permits to allow logging above 400 metres (Code, Key Standard No. 1, p. 3). According to the draft *National REDD+ Roadmap 2014,* the use of discretionary permits has led to the loss of approximately 16,800ha of forest since 2005. The Code does not contain provisions requiring the reforestation of logged areas. The FRTU Act does not expressly refer to the Code, making its legal enforceability unclear.

As forest resources become more depleted in Solomon Islands there are reports of re-entry logging, further diminishing the prospect of forest recovery. The ***Protected Areas Act 2010*** contains a new legal mechanism that could be used to prevent re-entry logging in order to facilitate the recovery of logged-over areas. Under this Act, an area which has been the subject of over-exploitation or environmental degradation can qualify for protection as a "closed area" (**Protected Area Regulations 2012,** cl. 9).

# 5 Benefit-sharing

Solomon Islands does not have legislation which specifically addresses benefit-sharing and distribution systems for REDD+ activities.

At the national level, the Solomon Islands Government has recently passed the ***Public Financial Management Act 2013*** (in force 10 October 2013) which seeks to create a framework to promote sound public financial management and to encourage the transparent and accountable management of public funds. The Act allows for the national government to create "special funds" in order to manage revenue separately from Consolidated Funds (s. 24). This could potentially be used to manage national REDD+ revenues.

## 5.1 Forest Resources and Timber Utilisation Act

Under the ***Forest Resources and Timber Utilisation Act*** **[Cap. 40]**, resource owners are responsible for their own organisation and management of logging revenues at the local level – but this has been highly problematic. The World Bank has recently observed that communities where logging has occurred have a particularly high level of disputes, and that these can be frequently be traced back to the payment and distribution of royalties, rents, or access fees. Benefits are often captured by a small number of elite individuals, typically senior males, who may assert tenuous claims to land and forest ownership (**Allen et al, 2013**: XI). A different model for benefit-sharing is required to ensure that REDD+ benefits are shared on an equitable and transparent basis.

## 5.2 Protected Areas Act 2010

The new ***Protected Areas Act 2010*** contains a range of more modern provisions which could be used to facilitate benefit-sharing and fund management at the local level. The Act provides guidance for the funds to be managed at the local level by a management committee, including the maintenance of accounts, which must be audited annually (**PA Regulations**, cl. 60). At least three quarters of the members of a management committee must approve the use of funds and the committee must prepare an annual statement of accounts for viewing by stakeholders and the Minister (cl. 60).

The **Protected Areas Act 2010** also contains some provisions which attempt to address the misuse of community benefits for private gain (see *Box 7: Benefit-sharing provisions in the Protected Areas Act 2010*).

Box 7: Benefit-sharing provisions in the *Protected Areas Act 2010*

The ***Protected Areas Act 2010*** contains the following provisions on benefit-sharing:

**Clause 46 Shared Benefits, etc.**

1. *Any benefit, right or obligation arising out of or in connection with a protected area shall be a common benefit, right or obligation of the landowning tribe and all its members.*
2. *Any decision unilaterally made by a single member of the tribe in relation to a protected area without the general consensus or endorsement of all, or at least a majority of tribal members, shall be invalid.*

### 5.3 Options for incorporating landowner groups

Solomon Islands does not have legislation which allows landowning groups to be legally recognised or registered as an incorporated group, such as the model used in Papua New Guinea for creating incorporated land groups (Land Groups Incorporation Act). Nevertheless, there are some existing legal mechanisms that landowners could use to enter into agreements and to facilitate benefit-sharing in Solomon Islands.

The two legal structures generally used by communities who wish to undertake conservation activities on their customary land are:

- A **charitable trust** under the ***Charitable Trusts Act*** [Cap 55]. This is the structure most often used by non-government organisations and community-based organisations in Solomon Islands (see, for example, the Kolombangara Island Biodiversity Community Association described in *Box 10: Enforcing the Environment Act 1998 in Kolombangara, Western Province*). The trust must be established for a charitable purpose (s. 2). However the Act does not require annual audits and provides limited guidance on financial management or the roles and responsibilities of trustees.
- A **community company** can be incorporated under the ***Companies Act 2009***. This is essentially a private company with directors and shareholders. The members must have something in common, such as coming from the same area, and having a common objective to promote the community interest (s. 166).

## 6 Dispute resolution framework

Most disputes are dealt with informally at the village level, either by local chiefs or leaders, or in some cases, the church.

### 6.1 Legal framework

Under the formal legal framework, disputes over customary land in Solomon Islands must first be referred to the local chiefs, who will determine the dispute according to *kastom*. If the matter is not resolved using "traditional means", the matter can be appealed to the local court (**Local Courts Act [Cap. 19]**, s. 12(1)), which can hear all civil matters "affecting or arising in connection with customary land" (**Land and Titles Act**, s. 254). The most common grounds for appeal are allegations that the local leaders and chiefs were biased. Appeals from local courts in relation to land disputes are made to the Customary Land Appeal Court. A further avenue of appeal lies to the High Court on matters of law, but not custom (see *Figure 1: Court hierarchy of Solomon Islands*).

The forestry legislation has, however, created a conflicting legal regime for determining which tribe or clan has the right to grant timber rights, and who are their authorised representatives. Under the ***Forest Resources and Timber Utilisation Act***, these issues are determined by the Customary Land Appeal Court rather than the Local Court.

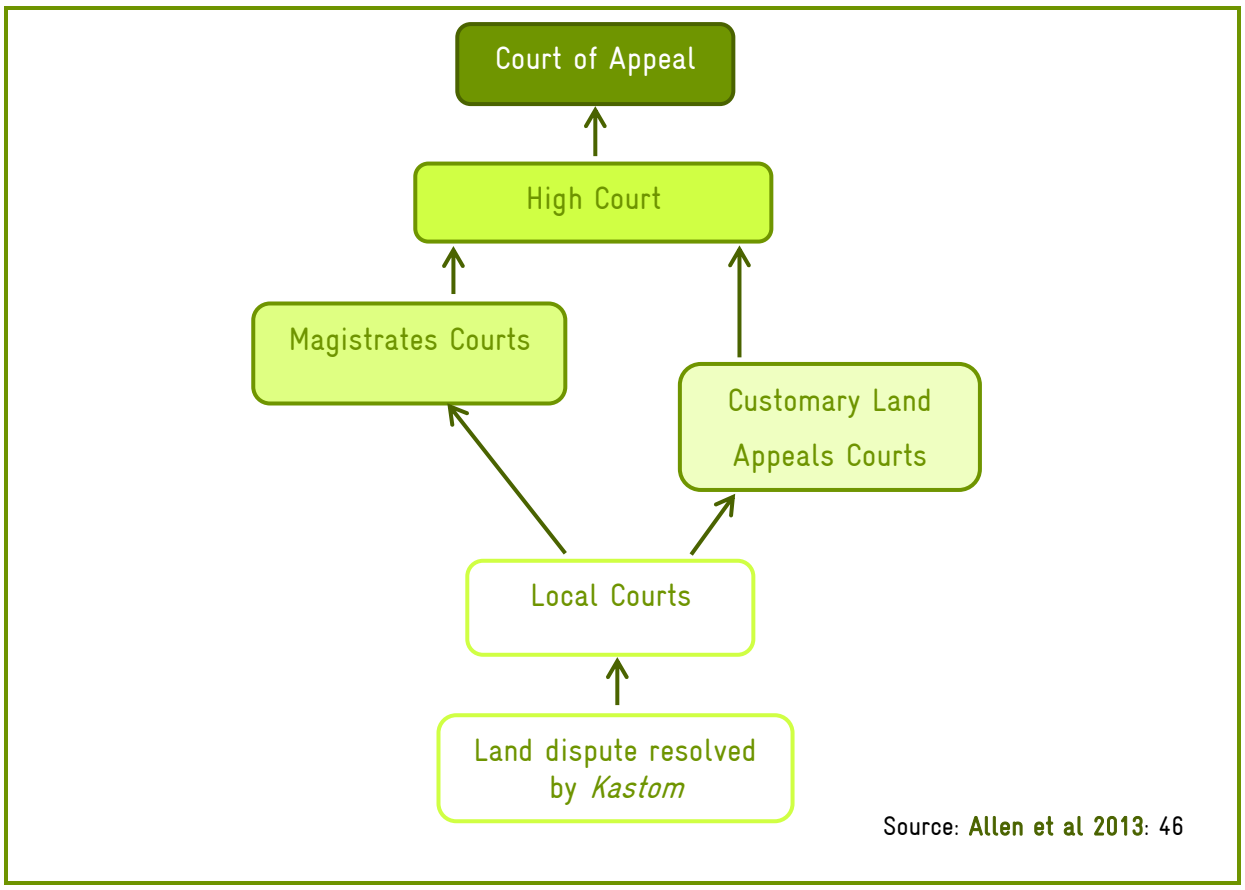


Figure 1: Court hierarchy of Solomon Islands

## 6.2 Observations

Disputes over 'ownership' of customary land and the exploitation of natural resources such as timber are a very common in Solomon Islands. A recent report by the World Bank into the main sources of grievance in Solomon Islands found that disputes over land and development-related issues are the second most common cause of disputes affecting rural communities (with the first being anti-social behaviour stemming from substance abuse)(**Allen *et al*, 2013**). The Report also found that most existing dispute resolution mechanisms in Solomon Islands, whether customary or state-based, are struggling to deal effectively with disputes over land and natural resource, particularly where logging is involved.

While the traditional *kastom* system, the first port of call to resolve land and other disputes, is generally regarded as a having a legitimate mandate to resolve disputes, it is increasingly fragile and in some places appears to have broken down altogether, particularly if the chiefs and local leaders have themselves become entangled in logging operations. Nor is the formal justice system functioning well. Due to decades of government neglect and lack of funding since the mid- 1990's, both the Local Courts and the Customary Land Appeal Courts have now almost virtually ceased to function. The Local Courts, which are supposed to deal with civil and criminal cases, are overwhelmed with the volume of customary land disputes and currently have a backlog of 350-400 land dispute cases (**Allen *et al*, 2013**: 47). The combined failure of traditional processes and the formal justice system is leaving affected citizens without remedy for grievances. In response to these problems, the Ministry of Justice and Legal Affairs has recently draft legislation, the Tribal Dispute Resolution Panels Bill 2012, to replace the current system of dispute resolution over tribal customary land (**Solomon Islands Law Reform Commission 2012:59**).

Since the period of civil conflict known as the "tensions" ended in 2003, a multilateral effort delivered by the Regional Assistance Mission to Solomon Islands **(RAMSI)** has worked to strengthen and the court system and improve access to justice in an effort to restore law and order (**RAMSI 2009**). However, on the ground, these efforts have largely focussed on supporting higher level courts in the capital, Honiara, and there has

been little support for local level courts. Significant effort is still required to ensure that effective grievance and redress mechanisms are in place at the community and local levels in order to create an effective grievance procedure and dispute resolution mechanism for a national REDD+ programme.

## 7 Land use planning

Solomon Islands lacks a national legislative framework for land use planning. The ***Town and Country Planning Act [Cap. 154]***, introduced in 1980, regulates and controls development in town areas (known as local planning areas) (s. 3) but does not apply to customary land, which is where the majority of forest is found (s. 7(1) and 13).

The outdated and incomplete forest legislation, the ***Forest Resource and Timber Utilisation Act*** does not contain provisions for forest use planning, and therefore cannot be used to fill this gap. In the absence of any legislative alternative, the ***Protected Areas Act 2010*** (see Section 8 below) offers the only legal mechanism for conserving forest carbon stocks.

Solomon Islands is currently preparing a National Land Use Policy through the Land Use Planning Division of the Ministry of Agriculture and Livestock, although this is yet to be approved by Cabinet (**Herming 2014**).

## 8 Protected areas

Protected area laws can play an important role in achieving emission reductions and removals from the forest sector by providing long-term legal protection for forest carbon stock which are set aside for conservation.

Solomon Islands currently has a large number of small community-level protected areas in Solomon Islands, covering approximately 5% of the land area. However the legal protection enjoyed by most of these areas is often weak as they are established under provincial ordinances, customary law or by conservation agreements (contract), and do not give legal protection against incompatible land uses such as logging (see the case study in *Box 10: Enforcing the Environment Act 1998 in Kolombangara, Western Province*).

In Solomon Islands, there are five mechanisms under which areas of land can receive legal protection for conservation, with the most feasible options for REDD+ activities being (a) and (b):

a. **Declaration of a protected area** under the ***Protected Areas Act 2010***. Although this Act is intended to provide the legal framework for a system of protected areas, the Act does not prohibit the grant of timber or mining rights over declared areas: see below.

b. **Declaration of conservation areas at province level**: Some provinces have passed ordinances which allow for areas to be set aside for conservation. However this can be a complex process and the delineation of boundaries is often a contentious matter. An example of such an ordinance is the **Moli Wards Chiefs Council Ordinance 2010** (see *Box 8: Regulating land use through a provincial ordinance*).

Box 8: Regulating land use through a provincial ordinance

Provincial governments are empowered to make laws which codify and amend customary laws about land and to register customary rights through the use of provincial ordinances (***Provincial Government Act [Cap. 118]***, s. 26; Sch. 3), a power which could be used to facilitate REDD+ activities on a provincial level, if required.

Using this power, the Guadalcanal Provincial Assembly has enacted the ***Moli Wards Chiefs Council Ordinance 2010***. This Ordinance recognises the hereditary chiefs in the Ward and establishes the Moli Ward Chiefs Council. Among other things, the Ordinance provides for sustainable harvesting of land resources (s. 15). It also obliges the Council to encourage a reforestation campaign (s. 18). The Ordinance requires non-citizens to obtain development approval from the Council (s. 17) and provides a dispute resolution procedure for land disputes (s. 19).

Source: **Corrin 2012**

c. **Declaration of a sanctuary:** The Minister can declare any land, including customary land, to be a sanctuary under the *Forest Resources and Timber Utilisation Act*, from which timber must not be removed (s. 44(1)(s); Sch. 2). However the land must first be compulsorily acquired, which is unlikely to be acceptable to customary landowners.

d. **Declaration of a State Forest:** The Minister can declare public land to be a State Forest under the *Forest Resources and Timber Utilisation Act* (ss. 20 – 23).

e. **Declaration of a Forest Reserve:** The Minister can declare a forest to be a forest reserve under the *Forest Resource and Timber Utilisation Act*, but only for the limited purpose of protecting water resources (ss. 24 - 28).

## 8.1 Protected Areas Act 2010

The *Protected Areas Act 2010* came into force on 10 February 2012. It addresses the lack of a national legal mechanism capable of protecting land areas from incompatible uses. Under the Act, the Minister can declare an area to be a protected area if, among other things, it "possesses significant … biological resources" which have "actual or potential use or value for humanity". This could arguably apply to protecting forest areas for the purpose of carbon storage, with such an area being classified as either a "resource management area" which can be used for the benefit of customary owners or a "closed area" if the objective is to allow rehabilitation due to excessive exploitation (s. 2, 10; Protected Area Regulations 2012, cll. 8 and 9). Landowners or a non-government organisation can request that an area be declared as a protected area (s. 10).

### 8.1.1 Landowner consent required

The consent of customary landowners and other groups or persons with rights or interests in the area is required before a declaration can be made (s. 10(6)). The process for group consultations is set out in the Regulations (cl. 44)). The Act requires that declared areas be managed by a management committee, which may include 'owners' of the protected areas, and also requires that areas be managed according to a management plan (s. 12(1)). The Minister can amend, vary or revoke a declaration, which can be done on the request of the landowner or management committee (s. 10(8)).

While land boundaries must be accurately mapped before an area can be declared, a declaration will not change the ownership or nature of customary land tenure unless the customary owners choose to convert their title to a registered title (Regulations cl. 45). Boundary disputes between different customary owners that share a common boundary with that of a protected area must be settled by open dialogue and negotiation according to the processes set out under the *Customary Land Records Act* (Regulations, cl. 17).

### 8.1.2 Logging and mining prohibited in protected areas

The legal protection for areas declared under the Act appears to be quite strong. Commercial logging and mining are prohibited within a protected area and within one kilometer of the boundary of the area (Regulations cl. 61). Land-based pollution, whether intentional or negligent, of a marine protected area, is

also prohibited, which could apply to run-off from logging activities (cl. 54). The penalty for contravening either of these provisions is 100,000 penalty units (i.e. Solomon Island $100,000, or approximately US $14,000).

A few applications for declarations of protected areas have now been lodged, but these cannot currently be processed as the Advisory Committee which is required to assess the applications and implement the Act has not yet been established (s. 6).

### 8.2 World Heritage properties

Although Solomon Islands has been a party since 1992 to the *1972 World Heritage Convention*, until recently there was no legal protection under domestic law for sites that were declared under the Convention. This deficiency has been remedied by the ***Protected Areas Act 2010***. Under the *Protected Area Regulations 2012*, any area within Solomon Islands that is listed under the Convention as a world heritage site must be declared by the Minister to be a protected area (s. 10(c); Protected Areas Regulations 2012, cl. 10). To date, only one site in Solomon Islands, East Rennell in Renbel Province, has been declared as a World Heritage site, although it remains unprotected unless and until it is declared as a protected area under the **Protected Areas Act 2010**.

## 9 Safeguards

Solomon Islands is still in the process of selecting and developing its nationally-appropriate safeguards for REDD+. With assistance from the UN-REDD Programme, the country has prepared *Guidelines on the Development of REDD+ Safeguards within the Solomon Islands National REDD+ Process* (draft for discussion, February 2014).

### 9.1 Free, prior and informed consent

Given that over 85% of land in Solomon Islands is held as customary land and the majority of REDD+ activities will be undertaken on these lands, the free, prior and informed consent **(FPIC)** of customary landowners will be required for almost all REDD+ activities. With assistance from the UN-REDD Programme, the Solomon Islands Government has prepared *Guidelines for Developing Stakeholder Engagement REDD+ within the Solomon Islands* (draft, February 2014).

Unlike Vanuatu where the National Council of Chiefs (the "*Malvatumauri*") is established under the Constitution, there is no national federation of indigenous peoples in Solomon Islands. In some provinces, tribal groups have formed a Council of Chiefs, such as the Isabel Council of Chiefs, the Guadalcanal Council of Chiefs, and the Lauru Land Conference of Tribal Communities, a community-based landowner structure which represents all landholders in Choiseul Province. These structures could facilitate the process for seeking and obtaining FPIC for REDD+ activities at the provincial level.

At the local level, there is no over-arching national legislation which set out a prescribed process for consulting and obtaining the consent of tribal groups for activities affecting their land. Experience to date with the process for obtaining landowner consent for commercial logging under the ***Forest Resources and Timber Utilisation Act***, has been highly problematic and does not meet the international standards for FPIC (see the 2007 *United Nations Declaration on the Rights of Indigenous People*). The ***Customary Land Records Act***, which sets out a process for identifying and recording which tribes hold primary and secondary rights over customary land, may provide a potential entry point for FPIC processes (see *Box 5: The Customary Land Records Act*).

### 9.2 Gender equity and equality

Promoting and enhancing gender equality, gender equity and women's empowerment is an important safeguard for REDD+.

In Solomon Islands, women have restricted roles in leadership and decision-making processes at the family, tribal and community levels. Although there are some matrilineal societies where women inherit customary land (see *Box 9: Matrilineal societies and customary land ownership in Solomon* Islands), this does not necessarily guarantee that women will be included in decision-making regarding their land, with decisions often being made by men (CEDAW 2013:32). Women also have responsibility for food production, including activities which depend upon the effective management of forest resources such as obtaining water and gardening, and may therefore be exposed to adverse impacts from REDD+ activities unless effective safeguards are in place to ensure gender equity and equality.

Box 9: Matrilineal societies and customary land ownership in Solomon Islands

Land in Solomon Islands is owned through custom and is mostly passed on through patrilineal descent. However six of the nine provinces still have areas which practice a matrilineal land tenure system (Guadalcanal, Nggela, Savo, Isabel, Shortlands and some parts of the Western Province). Although ownership passes through the maternal line, real control and management of land is often exercised by the women's brothers and other men of the clan, as women's land rights are not legally protected.

In many cases ownership or usage through customary practices has become a source of conflict, particularly where the economic development of land for large-scale logging or land titling takes place. Logging, mining and other commercial operations view male chiefs as the relevant custodians to approach in seeking rights to land use, who are motivated by monetary gain and who often negotiate deals with total disregard for women, even where matrilineal inheritance systems are in place. Consequently, women are receiving very little economic benefit from the use of land for economic purposes.

*(Sources: **CEDAW 2013**:77)*

The Constitution prohibits domestic laws which discriminate on the basis of sex. It also prohibits people from being treated in a discriminatory manner by others who exercise lawful authority (e.g. magistrates, etc.) (s. 15(1) and (2)). However, this provision does not provide an effective safeguard to prevent discrimination against women as the constitutional protection does not apply to customary laws, or to laws which relate to land or land tenure (Art. 15(5)). This exemption has been interpreted widely by the courts, permitting discriminatory customary laws to have effect (Tanavalu v Tanavalu, **[1998] SBHC 4, HC-CC 185 of 1985**; upheld by the **Court of Appeal**).

Solomon Islands ratified the 1979 *Convention on the Elimination of All Forms of Discrimination against Women* **(CEDAW)** in 2002 although its provisions have not yet been incorporated into domestic law. In accordance with Article 5 of the Convention, the Committee on the Elimination of All Forms of Discrimination against Women has recently asked Solomon Islands Government to provide information on the measures it is taking to eliminate discriminatory practices against women which are embedded in customary law, such as traditional forms of inherited male leadership, and the prevalence of men in customary land management (CEDAW, 2014).

Neither the ***Forest Resources and Timber Utilisation Act*** nor the ***Protected Areas Act* 2010** contain any provisions to ensure women's inclusion in consultation and decision-making processes. By contrast, the **Environment Act 1998** requires that a gender impact assessment be undertaken as part of an environmental impact statement (**Environment Regulations 2008**, cl. 5(g)).

## 9.3 Social and environmental impact assessment

Solomon Islands has a comprehensive legislative framework for environmental impact assessment in the form of the ***Environment Act 1998*** (and **Environment Regulations 2008**), which could form the basis for an effective social and environmental safeguard – but only if it is made clear that the Act applies to REDD+ activities. This could be achieved by amending the list of "prescribed developments" to include REDD+ activities (s. 16; Sch. 2). The Act would also form a more effective social safeguard if it contained more detailed guidance as to how the social impacts of a proposed development must be identified and assessed, including the potential impacts on women.

Under the **Environment Act 1998**, logging operations are listed as a "prescribed development" and therefore require approval (development consent) from the Director of the Environment and Conservation Division as well as some form of environmental impact assessment **(EIA)**, either in the form of a public environment report **(PER)** or a more detailed environmental impact statement **(EIS)** (ss. 16 – 19) (see *Box 10: Enforcing the Environment Act 1998 in Kolombangara, Western Province*). The Director must decide whether a PER or EIS is required before the Director can grant approval to a proposed operation, unless the Director has decided to grant the developer an exemption instead (ss. 17(4) and 19(c)). The Director can also require existing logging operations to prepare a PER or EIS (s. 18). People whose interests are likely to be affected by a proposed development have the right to participate in the EIA process (ss. 22 – 24).

As the Act currently stands, REDD+ activities are unlikely to trigger the requirement to prepare a PER or EIS unless the REDD+ activity incorporates an "agricultural development scheme", which itself is a prescribed activity (Sch. 2(8)(b)). While there is also a general duty imposed on all public authorities (local, provincial and national) to consider the effect on the environment of a proposed development where the development requires some type of approval, this lower threshold means that it is less likely to result in the need to prepared a PER or EIS for a REDD+ activity (s. 15).

Box 10: Enforcing the *Environment Act 1998* in Kolombangara, Western Province

The requirement for logging operations to undertake an environmental assessment under the ***Environment Act 1998*** and to obtain development consent before commencing logging operations was recently enforced through the courts in Solomon Islands.

**The first court case**

The Kolombangara Island Biodiversity and Conservation Association **(KIBCA)**, is an organisation incorporated under the ***Charitable Trusts Act [Cap. 55]*** and represents customary landowners on Kolombangara Island in Western Province. In 2010 KIBCA brought proceedings in the High Court seeking an injunction to stop a logging company, Success Company Limited, and its contractor from logging on Kolombangara. Despite a Community Conservation Agreement being in place over the land, Success Company had obtained a logging licence over an area known as 'Lot 1' on Kolombangara Island, including parts of the cloud forest above 400 metres.

When Success Company commenced logging, KIBCA became aware that the company had not conducted an EIA and had not obtained development consent as required by the *Environment Act 1998*. Nor had the company obtained approval from the Commissioner for Forests to log above 400 metres, as required by the *Solomon Islands Code of Logging Practice*.

In August 2010 the High Court granted KIBCA an interim injunction restraining Success Company and its contractor from logging in the disputed area without undertaking an EIA and without first obtaining development consent from the Director of the Environment and Conservation Division. The Court also confirmed that the *Solomon Islands Code of Logging Practice* is legally enforceable (see ***Kolombangara Island Biodiversity Conservation Trust Board (Incorporated) v Success Company* [2010] SBHC 54; HCSI-CC 282 of 2010 (27 August 2010**.)

**The second court case**

Subsequently, in September 2010 Success Company obtained approval from the Commissioner for Forests to log above 400 metres, and in March 2011 the Director granted a development consent for logging based on an EIA which the company had commissioned. KIBCA has commenced a second court case challenging the Commissioner for Forests approval as well as the development consent granted by the Director, claiming that the EIA that was prepared is inadequate. As at March 2014, the case was not yet heard.

*Source:* ***Hou, Johnson and Price, 2013***.

## 9.4 Anti-corruption framework

Since the 1980's, the forest sector in Solomon Islands has been characterised by collusion between foreign logging companies and local politicians, systemic corruption and poor monitoring and enforcement (**Allen 2011**). Numerous efforts to reform the flawed processes for allocating timber rights under the ***Forest Resources and Timber Utilisation Act*** in order to restrict the potential for local-level corruption in the grant of timber rights have all failed. Both the government and landowners have been deprived of revenues from

the logging industry as a result of corruption and the inequitable distribution of revenues under logging contracts.

Legal rights of the public to access information are weak: the Constitution does not recognise the right of access to information and there is currently no freedom of information law. Transparency International has recently made a number of recommendations to reduce corruption risks, such requiring the details of timber rights processes, approval outcomes, and ministerial decisions on timber values (to ensure fair export duties are paid), to be publicly notified, recorded and gazetted (**Transparency International 2012**:12).

The Solomon Islands Government has recently joined two international initiatives which will require it to take steps to improve its anti-corruption framework. In 2012, Solomon Islands became a party to the *2003 **United Nations Convention Against Corruption*** **(UNCAC)**, which, among other things, obliges countries to create a preventive anti-corruption body, such as an Anti-Corruption Agency (Art. 6). In June 2012 Solomon Islands also joined the Extractive Industries Transparency Initiative **(EITI)**, a voluntary initiative which requires resource companies to disclose what they pay to government which is reconciled against the revenues received by government, with an explanation of any discrepancies. However, so far the EITI only applies to the mining sector in Solomon Islands and does not extend to its forestry sector.

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Note: The laws of Solomon Islands are not readily available. Although some legislation and case law is available in hard copy or online, there is no comprehensive collective available. Some legislation for Solomon Islands is available on PacLII, although these laws are not consolidated beyond 2006. Two other sources of legislation are FAO LEX, **the legislative database for the FAO Legal Office, and the Public Solicitors Office of the Solomon Islands which contains the main environmental laws of Solomon Islands as well as a number of legal guides and fact sheets for landowners.** While the author has taken all due care to identify up-to-date legislation, it is not possible to guarantee that all amending and subsidiary legislation has been cited.


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- Environment Regulations 2008

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Forests Act 1999 (not in force)

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- Principal Act amended by the Forest Resources and Timber Utilisation (Amendment) Act 2000
- Revised Solomon Islands Code of Logging Practice, May 2002
- Forest Resources Citation and Timber Utilisation (Prescribed Forms) Regulations 1978
- Forest Resources and Timber Utilisation (Fees) Regulations
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*Guidelines for Developing Stakeholder Engagement for REDD+ within the Solomon Islands*, February 2014 (in draft)

*Guidelines on the Development of REDD+ Safeguards within the Solomon Islands National REDD+ Process* (draft for discussion, February 2014).

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| Treaty or convention | Year of ratification |
|---|---|
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| 1979 **Convention on the Elimination of All Forms of Discrimination Against Women** (CEDAW) | 2002 |
| CEDAW Option Protocol to CEDAW (to accept individual complaints) | 2002 |
| 1992 **United Nations Framework Convention on Climate Change** | 1994 |
| 2003 **United Nations Convention Against Corruption** | 2012 |