

Government of
the Solomon
Islands

Review of Functional Assignments for Provinces / Provincial Governments in Solomon Islands

DISCUSSION PAPER

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As per the terms of reference, the main objectives of the assignment were: to carry out a stock-take of administrative service and local management functions that are currently carried out by Provincial Government in Solomon Islands, as well as agency functions that are carried out by these Provincial Governments on behalf of line ministries; to review these findings in the light of international experiences and good practice; and to bring this to a workshop with relevant stakeholders to start a discussion on reform of functional assignments. During the briefing, it was decided to focus data collection on four sectors : health, education, agriculture and infrastructure. The workshop –combined with the topic of fiscal decentralisation and experiences from Papua New Guinea- was held on 25th and 26th November 2009. The present paper has benefited from the inputs made during the workshop.

The assignment was conducted by Gerhard van 't Land (ETC East Africa, Nairobi), who wishes to thank the staff of MoPGIS and the PGSP for facilitating the study and the fieldwork. Thanks are equally extended to all those persons, in their respective line ministry offices and offices of the provincial governments in Guadalcanal and Malaita province for sharing both time and ideas. Unfortunately, a planned visit to Choiseul province had to be cancelled for logistical reasons.

Although the document is the output from an assignment commissioned by UNDP/UNCDF, the author is solely responsible for the content of the document, and views and interpretations expressed are not necessarily those of neither the Government of Solomon Islands, nor the MoPGIS, UNDP or UNCDF, nor any of the parties that contributed in one way or the other to the report.



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Abstract

Even though, in terms of population, the Solomon Islands is a small country, given the geographic nature and the ethnic diversity, some sort of decentralisation is imperative for effective service delivery. Such decentralisation can take different forms. Although the policy intention appears to be towards devolution, across the various sectors there are actually very few examples –if any- of service delivery performed in a devolved manner. Most services –e.g. those mostly referred to under the Millennium Development Goals (such as health and education, agriculture, roads) are presently provided in a manner that is a mixture of de-concentrated and delegated arrangements.

The term *functional assignment* is defined as the allocation of government roles, functions and tasks between levels of government, in this case between the central government and the provincial governments (GTZ, 2009). The paper endeavours to provide a description of the present system of functional assignments for selected sectors (health, education, agriculture and infrastructure), and makes some suggestions for gradual steps that could be taken towards a more devolved set-up that could apply under the present legal framework, but also be of benefit for a system as outlined under the draft federal constitution, if and when it would become operational.

After a choice on the preferred type of decentralisation has been made explicit, a very first step would be to engage with line ministries in a process to clarify roles and responsibilities of central ministries versus decentralised units of government – whether they be called provinces or states- as well as service delivery outlets – such as schools and health facilities. Following the rule that ‘resources follow functions’, only then can appropriate arrangements for management, funding and staffing be worked out. The paper makes the case that even when services are devolved, there will remain certain important functions for the central ministries that need to be clearly defined.

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Executive Summary

The analysis of present and desired functional assignments in Solomon Islands broadly leads to three conclusions. Firstly, and this applies to both the model of a unitary state as well as a federal state, that the policy orientation appears to be towards a model of devolution, whereby sub-national governments with their own body of elected representatives, are given a fair amount of autonomy with regards to decision-making around financing and staffing for service delivery.

The second conclusion is that the present mode of service delivery is largely based on a centralised or de-concentrated model, whereby central line ministries take the majority of decisions and have control over both sector finances and staff. Meanwhile there is a lot of confusion on reporting lines, especially for the, so-called, seconded staff, as well as for the actual roles and functions of provincial governments. Much of the present confusion in the relationship between Provincial Governments and line ministries stems from the fact that many people are bound to think that the model applied is 'devolution' while in actual fact the model on the ground is mainly 'de-concentration'. There is a mismatch between 'what people think there is' and 'what there actually is'.

The mandate for Provincial governments is based on the Provincial Government Act (1997), which itself is in spirit a replica of the PGA (1981) that was adopted shortly after independence. The Act distinguishes between *legislative* and *executive* functions, whereby the areas for which the provincial governments can make legislation are not necessarily linked to the areas where the Provincial Governments (PGs) have executive functions. Overall, and contrary to the Local Government Act, the Provincial Government Act is more focussed on the political structure without paying commensurate attention to the service delivery functions that one would expect PGs to have played.

Whereas, retrospectively, the legal framework (for service delivery by Provincial Governments) was not as solid as it could have been, during the past decades insufficient use has been made of instruments provided in the PGA –such as the devolution orders and agency agreements- that could have fostered more effective decentralisation by devolution even within the given legal frame. At the same time, and probably partly because of the lack of any mechanisms to ensure that PGs actually 'do what they are supposed to do', PGs started to selectively apply some of the functions given to them (see Table 3.6 on page 32), which have often more to do with 'income generation' rather than 'service delivery'. Over the same period, the various service grants –given their names obviously meant for particular types of service delivery- became sources of fully discretionary funding. For similar reasons, in the years after the PGs were created, various line ministries took back whatever functions had been

handed-over. Only the assets (such as office buildings) were not taken back, which is a source of confusion to-date. Clearly PGs were not given clear mandates, neither the necessary resources including manpower, but at the same time it needs to be noted that it appears as if PGs did not seize the available opportunities to influence service delivery either. For education, for example, the PGs are the Education Authority in the province – yet the involvement of PGs in education service delivery is as limited as for other sectors.

At the moment, PGs are insufficiently involved in meaningful mainstream service delivery. Even the roles of cross-sectoral coordination and improving service delivery through popular participation (the political argument in favour of decentralisation) are not played. For PGs to become more meaningful it is imperative that they do (gradually) get involved in mainstream service delivery.

The third conclusion is about the wide gap between the desired and the actual situation and the need for PGs to get involved in meaningful service delivery; Broadly about the need to ‘walk the talk’ and to gradually move towards a more devolved system of service delivery. Some sectors, such as health and education, have over the past few years realised the need to decentralise their service delivery, and have taken concrete steps in doing so mainly following models of de-concentration and delegation. Given the past experiences with PGs, it is understandable that these sectors are reluctant to ‘handing over’ to PGs – yet there is scope to converge, whereby PGs are gradually groomed into the loop.

Based on an analysis of the main issues, being :

- Need for an explicit choice on the preferred model of decentralisation
- Clarity on the role of MPGIS and other central ministries
- Need for enhanced clarity on roles and functions for the sub national level
- Need to reduce ambiguity in reporting lines
- Need to align funding streams and accountability lines
- Need for simultaneous action to make decentralisation work

we provide in the last chapter of this report (notably paragraph 5.2 on pages 40 and 41) a number of concrete recommendations –related to the pillars of a process of devolution– that could help providing the roadmap towards this process of devolution. For ease of reference, we have copied these recommendations below.

We have thereby argued in the report, that such steps are needed, irrespective whether the country remains a unitary state or whether it becomes a federal state.

Recommendations

➤ Regarding Roles and Responsibilities

1. MoPGIS/PGSP to engage with interested Ministries (and Provinces) that are keen on clarifying roles, in a process-exercise of unbundling the various functions and determine what can/should be decentralised and what should stay at the national level. At present the issue of transfer of functions is too often dealt with on a 'stock, lock and barrel basis'.
2. As part of the above process, assure cross-sectoral information sharing to seek for common approaches and synergies.
3. Prepare, -based on the outcome of this process, and in which the line departments should take an active, if not leading role-, a manual on roles and responsibilities of and relationships between (i) assembly members, (ii) the executive, (iii) the PG overall administration and (iv) the technical/line departments, as well of the roles of MoPGIS and the constituents.
4. Within the present legal setting the aim would be to arrive at agency agreements (or devolution order) – whereby it is proposed to strive doing this in such a way that they are valid for all Provinces. The present set-up whereby each Ministry has to make agreements with each province seems too cumbersome and complicated to be effective.

The experience of Papua New Guinea (PNG) may be illustrative here. Firstly, because PNG opted to make changes in the functional assignments prior to making changes to the legal framework. The 'legal' work was only done after things had been agreed, worked out and even tested. Secondly, because, as attached in Annex 4, the way PNG made simple descriptions of functional assignments may be helpful for Solomon Islands. Function assignments, are not rocket science, but require common sense and consensus building amongst involved parties.

5. Organise training / orientation / induction courses and events for the same. The general principles of the system of Provincial Governments and how they should work (including roles and functions of assembly, executive and the administration as well as the rights of the citizens; in brief democratic representation) are insufficiently known to make the system work.

➤ Policy, Planning and Budgeting

6. Although there is a legal framework for provincial governments, a policy on decentralised service delivery is lacking. It is therefore suggested that MoPGIS -in collaboration with the Ministry of Home Affairs- prepares a short paper on the present positions regarding decentralised service

delivery that can be discussed in a wider forum and subsequently serve as input in the other activities that are proposed here.

7. MoF to work with line departments to make allocations for provinces visible in the national budget (as provincial 'entitlements' in the national budget) - as a precursor to provincial/state budgets.
8. Given the recent past performance of PGs, it is understandable that line ministries prefer to keep control on the spending of the funds being made available for the sectors (e.g. through the grants), but there is scope to explore how (i) budget information is shared (ii) how popular participation in planning is realised and (iii) how PGs get gradually into the loop of taking shared responsibility (e.g. as co-signatures on the accounts as is done for the education authority grant).
9. MoPGIS –together with the Ministry of Planning- prepare a planning and budgeting guideline (outline) for the totality of functions that are either delegated or devolved (or likely to be delegated or devolved).
10. Line ministries to develop a link between the National Ministers and the Provincial Ministers regarding sector policies.

➤ **Human Resources**

11. MoPGIS to prepare –together with the MoPS- a manual on procedures and accountability- and reporting lines for all seconded staff working in provinces on functions that are either delegated or devolved or likely to be delegated or devolved.

➤ **Legal Harmonisation**

12. MoPGIS to create an accessible registry and data base of all acts and ordinances related to provincial government
13. MoPGIS to make –together with the Office of the Attorney General- a list of factual and other inconsistencies between the Acts and have proposals prepared on how to deal with these (legal harmonisation).

All the above recommendations are to be taken as with simultaneous chess – they cannot be finished in one go, and other boards may need to be visited before a next move can be made. It is a process that needs to be facilitated and managed. A tournament organiser, if not stepping forward on it's own initiative, needs to be found.

1. Introduction

In the latest *RAMSI people's survey* (draft report dated August 2009), over half of the sampled population (53%) indicated that they were unhappy with the performance of the Provincial Governments (PGs). Levels of satisfaction with the performance of PGs is significantly lower as compared to those for Central Government where 'only' 40% said they were unhappy with its performance.

From the data presented, however, it is not clear whether people are unhappy with PGs because the functions they perform are of bad quality, or whether people are not happy because PGs are not even doing what they are supposed to do. Probably both, although virtually nobody seems to exactly know what PGs are officially mandated –and even more so- obliged- to do in terms of service delivery.

This discussion note is about what Provincial Governments are actually doing in terms of service delivery, as well as about what they should be doing, their relationship with line ministries (of health, education, agriculture and infrastructure) and what it would take to start a process to make PGs more meaningful in relation to service delivery.

This paper is meant to facilitate the start of a conversation –initially between the Ministry of Provincial Government and Institutional Strengthening (MPGIS) and line ministries- around issues of decentralised service delivery. The paper does not pretend to present answers or solutions – but just endeavours to put the issues on the table. Examples of possible functional assignments for PGs and the Central Government are only given to make these examples more concrete – but it will be the Ministries themselves that, in consultation with MPGIS and probably Prime Minister's office- will have to agree on such a division of tasks – that need not be static but may well change over time as the decentralised system of public sector service delivery evolves.

The paper, a draft of which served as input for a workshop held on 25th and 26th of November 2009, is structured as follows: Chapter 2 provides the historical context of Provincial Governments and describes and reviews the existing legal framework for them to operate. It also describes how the new draft Constitution deals with the issue of decentralised service delivery. Chapter 3 provides a cursory overview – with a focus on the institutional arrangements- on how selected ministries presently deliver services and how this relates to the roles of PGs. Chapter 4 is a discussion around the main issues emerging from this overview, while Chapter 5 describes a possible process for the way forward.

2. History of Provincial Governments and the Legal Framework

2.1 Establishment of Provinces and Provincial Governments

Following independence, and the coming into force of the Solomon Islands Independence Order (1978), serving as the country's Constitution, the then four districts, previously headed by a district commissioner, became provinces. With the Provincial Government Act (1981), the number was increased to 7 while later two more provinces were split, making the present total number of nine.¹

The provinces are very different in size and population numbers, as well as in population density (see Table 2.1). Distances to the capital Honiara –itself being established as a separate City Council, outside of the surrounding Guadalcanal province-, and especially travel time as well as travel opportunities, to and from the capital to the provinces greatly vary.

Table 2.1 : Population, land area and population density

Province	Population	Land area sq km	Population density persons/sqkm
Malaita	140,569	4,234	33.2
Makira	50,026	3,188	15.7
Western	81,852	5,279	15.5
Isabel	23,638	4,014	5.9
Central	24,491	1,000	24.5
Guadalcanal	84,438	5,336	15.8
Temotu	23,800	926	25.7
Choiseul	31,259	3,294	9.5
Rennell & Bellona	4,409	276	16.0
Total	464,482	27,547	16.9

Source : PGSP programme document (population), Solomon Air (land area)

Although the economic activities in the rural areas of all provinces are fairly similar (mainly subsistence agriculture and fishing), the level of overall economic activity varies, normally reflected in the relative size of the provincial capital as well as the total population of a province.

The set of nine provinces therefore presents a very mixed bunch. The physical distances (and travel times) themselves would call for –if not impose- some form of decentralised service delivery. Yet, the differences in economic activity as well as population and population densities, means that the way service delivery is organised is likely to vary from one province to the other. On the one hand, this is one of the reasons to decentralise service delivery in the first place, on the other hand it puts a challenge to the central government on how to accommodate, support and finance those different requirements.

¹ In 1991, Choiseul was split off from Western Province and Rennell & Bellona separated from Central Province.

2.2 The Legal Framework – PG Act 1981 and 1997

Based on the Independence order, the provisions for Provinces and Provincial Governments –as a 2nd tier of a unitary state- were further worked out in the Provincial Government Act 1981, that was amended a number of times before being replaced by the Provincial Government Act 1997.²

Apart from defining the boundaries of the provinces (in Schedule 1), the 1997-Act defines, in Part II, the constitution of the Provincial Assemblies as well as the Provincial Executive, jointly forming the Provincial Government. As per the Act:

- *The number of assembly members is equal to the number of electoral wards as established under section 8 the PG Act 1981, which may be amended by the Minister (but which reportedly has never happened). Presently the number of Assembly members varies from 10 to 33 - See Table 2.2*

Table 2.2 : Population and PG Electoral wards (numbers)

Province	Population	No of electoral wards (= nos. of assembly members)	Average Population by ward	Present Number of Executives
Malaita	140,569	33	4,260	19
Makira	50,026	20	2,501	10
Western	81,852	26	3,148	13
Isabel	23,638	16	1,477	8
Central	24,491	10	2,449	5
Guadacanal	84,438	21	4,021	13
Temotu	23,800	17	1,400	8
Choiseul	31,259	14	2,233	7
Rennell & Bellona	4,409	10	441	5
Total	464,482	167	2,781	88

Source : MoPGIS

Each Province shall have an executive consisting of

- *a premier, elected by and from amongst the assembly members by secret ballot;*
- *a deputy premier – chosen (presumably by the premier, but the Act does not say so) from amongst the assembly members;*
- *a number of ministers chosen from amongst the assembly members (presumably by the premier, but the Act does not say so), in such a way that the number of members of the executive is less than 50% of the total number of members of the assembly;*
- *The premier, the deputy premier and the ministers are appointed by the Minister (of PGIS) on the advice of the premier; and*
- *Each Assembly elects (the Act is not explicit whether this is from its midst), a speaker (normally from outside) and a deputy speaker (normally from its midst).*

² The PG Act (1997) is available at http://www.paclii.org/sb/legis/num_act/pg1997253/. This Act repealed of the PG Act (1996), which had only been in force for one year before it was thrown out by in a High court case as it was found to be inconsistent with the provisions of the Constitution. The PG Act (1996) sought to revise the structure of provincial and local government by: creating Provincial Councils (to replace the Provincial Assemblies) and Area Assemblies, thus creating a third tiers of government; link them, with the chairpersons of the area assemblies constituting the members of the provincial council; and giving each level specific functions.

Several people spoken to are of the opinion that the change in structure – giving more powers to the local governments- was the motivation behind the high court case. With the PG Act (1997), the role of local governments was again minimalised – for which several people use the word ‘suspended’. The Local Government Act., however, continues to provide the legal framework for lower levels of sub national government.

As the PG Act (1996) had repealed the PG Act (1981), the PG Act (1997) repealed the Act of 1996 and re-enacted the PG Act 1981 with all its amendments made up to the date of its repeal in 1996. The 1997 Act is very much in line with the 1981 Act. The LG Act 1997 is reported to have been amended a few times – but these amendments are said not to be substantive. No copies of the amendments could be traced.

The fact that the *PG Executive* is appointed by the Minister, negates the understanding that PGs are autonomous legal entities (or body corporate), although it should equally be noted that the Act nowhere explicitly states they are.

Two more points need to be mentioned. Firstly, because of the limited number of wards in some provinces (as a result of relatively low population numbers) some Provincial assemblies are fairly small. Secondly, the 50%-rule (which all provinces have used up to the maximum, some even beyond), combined with the fact that deputy speakers are assembly members, means *de facto* that the remaining 'ordinary' assembly members' are a minority, which in turn means that there is no legislative body that can control the executive. The model –normally used for democratic local governance- whereby the people elect an assembly ('the legislative') that holds the executive to account, does not apply³. This, obviously, throws a different light on the roles and functions of the provincial Ministers.⁴

The Act is silent on the Provincial Administration, being the body of provincial Government employees that the executive is to steer and oversee. But Parts III and IV of the Act deals with transfer of functions and the exercise of functions respectively, and these sections should lay out the structure of the service delivery mandates and/or obligations of the provincial governments (the question raised in the first paragraph and regarding which there is so much confusion).

In *Part III* of the Act, regarding *The Transfer of Functions*, the Act distinguishes two types of such transfer of functions, which is either :

- by *devolution* – which in the context of the Act seems to be restricted to the law making (regulatory) powers of the PGs, either for local matters (schedule 3) or within the context of national laws (the statutory functions as described in schedule 4); or
- by *delegation*, in the form of what the Act calls *Agency agreements*, whereby Provincial Governments, notably for the statutory functions (schedule 4) could be asked to take up certain responsibilities on behalf of other parties.

In the discussion around provincial governments and their functions, the terms devolution, devolved functions and delegated functions are often loosely used, and different people seem to understand different things by the same words. Unfortunately, the law does not help much (to the extent that it seems confused by itself) and it may therefore be good to make a small sidestep to the definitions of the different types of decentralisation as found in international literature as summarised in Text box 2.1.

³ The Assembly has the powers to pass laws, but an equally important function is to oversee the operations of the executive, which is a consequence of their powers to have approved (by law) annual plans and budgets.

⁴ It means that ministers *de facto* become directly accountable to the population, making the assembly redundant.

Text Box 2.1 : Decentralisation - Forms and Definitions

Decentralisation reforms are undertaken in many, mostly developing, countries, but the nature of these reforms varies greatly, while the term 'decentralisation' is often used as a concept without strict definitions. The World Bank, for instance, normally uses the term "decentralisation" to describe a broad range of public sector (re-)organisations :

Decentralisation - the transfer of authority and responsibility for public functions from the central government to intermediate and local governments or quasi-independent government organisations and/or the private sector- is a complex multifaceted concept. Different types of decentralisation should be distinguished because they have different characteristics, policy implications, and conditions for success (World Bank, 2003).

There is a broad agreement to this use of terminology, although there is debate whether "privatisation" should be included⁵ or whether, a position we prefer to take, the term should be reserved exclusively for transfer of functions and powers within the public sector itself.

The question of privatisation apart, generally, a distinction is made between three main types of decentralisation⁶ :

De-concentration is often considered to be the weakest form of decentralisation; it redistributes decision-making authority, financial- and management responsibilities among different levels of the central government. It can merely shift responsibilities from central government officials in the capital city to those working in regions, provinces or districts, or it can create strong field administration or local administrative capacity under the supervision of central government ministries.⁷ De-concentrated functions are normally not entrenched in laws and can easily be withdrawn at any point of time.

Delegation is a more extensive form of decentralisation. Through delegation central governments transfer responsibility for decision-making and administration of public functions to semi-autonomous organisations not wholly controlled by the central government, but ultimately accountable to it. Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units. Usually these organisations have a great deal of discretion in decision-making. They may be exempt from constraints on regular civil service personnel and may be able to charge users directly for services. Delegation is often legally recognised.

Devolution is a third type of decentralisation. Devolution is legally entrenched, often in the Constitution. When governments devolve functions, they transfer authority for decision-making, finance, and management to quasi-autonomous units of local government with corporate status. Devolution usually transfers responsibilities for services to municipalities/district councils etc that elect their own mayors and councils, raise their own revenues and have independent authority to make investment decisions. In a devolved system sub national governments have clear and legally recognised geographical boundaries over which they exercise authority and within which they perform defined public functions.

⁵ UNDP for example, normally includes privatisation as part of its definition of decentralisation

⁶ Based on various World Bank reports; See also DEGE Consult (2007)

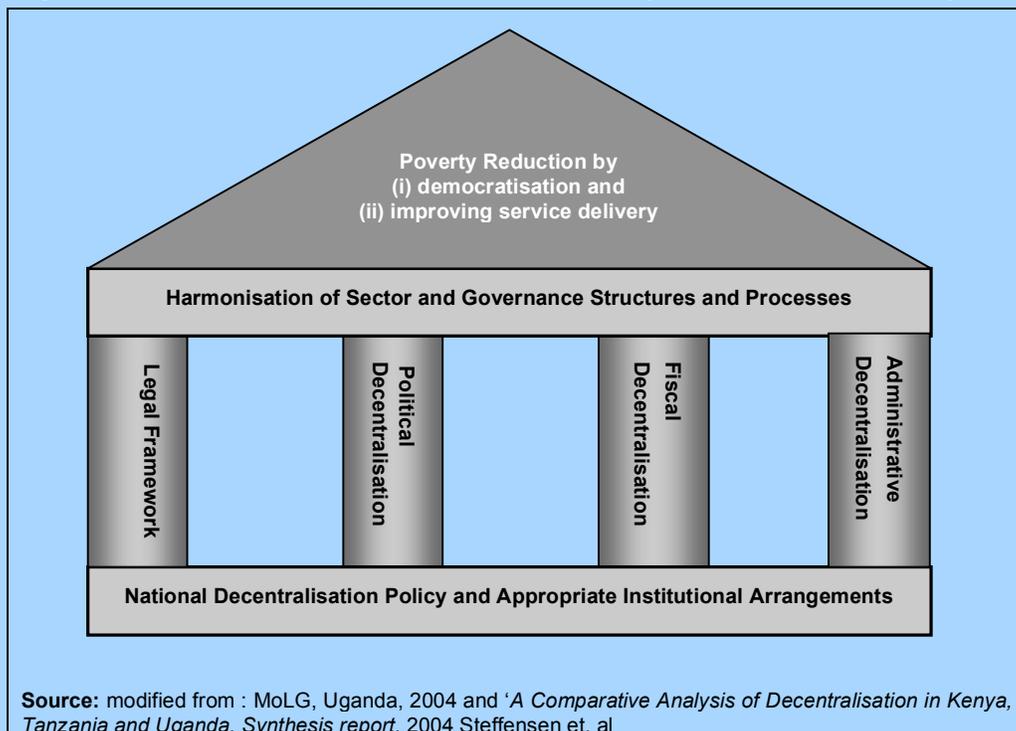
⁷ De-concentration is sometimes referred to as 'administrative decentralisation'

Text Box 2.1 : Continued

A fully devolved system combines elements of (i) political decentralisation, whereby locally elected leaders constitute the highest local government body, (ii) administrative decentralisation, whereby those local governments can 'hire and fire' their own staff, and (iii) fiscal decentralisation, whereby there are institutionalised arrangements in place for funding of local government operations, through normally a combination of local taxes and sharing of central government revenues through a system of intergovernmental fiscal transfers.

In a devolved system, the aspects of political, administrative and fiscal decentralisation are closely linked as shown in Figure 2.1 below. Based on the foundation of a decentralisation policy and an institutional framework to implement the policy, the aforementioned aspects, together with a legal framework are the pillars that jointly provide a democratic system at the sub-national level that is expected to improve service delivery.

Figure 2.1 : Foundation and pillars of a devolved system of service delivery



- User groups: In addition to the above three types of decentralisation, it has become a common trend within many sectors in many countries to strive for direct decentralisation through user groups, such as health facility management committees, school committees, water committees etc. This is often done in combination with any (or a combination) of the above-mentioned forms of decentralisation.

In the most commonly used definitions, the word 'devolution' is thus not restricted to 'legislative' or 'regulatory' functions, but rather to the entirety of 'service delivery functions' that are to be played by the sub-national levels of government.

With regard to the devolved functions, the PG Act (1997) uses the statement 'a Provincial Government *shall* exercise the functions specified in Schedules 3 and 4' (emphasis added) which are, as said, basically devolved regulatory functions and delegated statutory functions, and which are hence considered 'obligatory' or 'mandatory' functions.⁸

The mandatory functions themselves, as described in Schedule 3, are a mixed bag that includes:

- Licensing of trades and businesses;
- Protection and support for local crafts, historical sites and wildlife;
- Management of agricultural lands, and protection of fishing grounds;
- Registration of customary laws about land; and registration of customary rights in respect of land, including customary fishing rights;
- Regulation regarding water sources and - use, provision of rural water supply;
- Provision, maintenance and improvements of harbours, roads and bridges;
- Provision of local services such as: fire service, waste disposal, public toilets, beggars/homeless, markets, domestic animals and cemeteries; and
- Powers to raise revenues through rates, property tax and service fees.

Hence, the items under Schedule 3 include a few genuine regulatory functions, but also pure service delivery functions (roads, rural water supply, waste disposal etc.), as well as means to generate income (to provide other services)⁹. It should be noted that the sectors of health and education, being major public sector service delivery sectors in all countries over the world, are not mentioned in schedules 3 and 4. Even the Education Act is not mentioned in Schedule 4!¹⁰

Part IV of the Act deals with the *exercise of function*. Regarding the exercise of *legislative* functions, it describes that Provincial laws are made by *Ordinance*, approved by the Assembly and assented by the Minister (of PGIS), who only verifies that (i) the Ordinance is in accordance with the legislative competence of the Assembly and (ii) not in conflict with any government policy. If either of the two conditions is not met, the Minister will in the first case refer the matter to the high court (which ruling shall be binding) and in the second case to parliament with the recommendation for it to be disallowed (whereby the outcome of the vote is binding). With regards to the legislative functions of the PGs, the Minister therefore carries little own responsibility.

⁸ In contradiction to the main text, the heading of Part I of Schedule 4 read: "Functions that *may* be transferred" (emphasis added), while part II is about three specific acts (the Roads Act, the Traffic Act and the Public Holidays Act) that are concurrent functions.

⁹ In literature sometimes a distinction is made between actual service delivery, called 'production' and means to prepare and/or enable such service delivery – including planning and finance- called 'provision'.

¹⁰ The Education Act, one of the potentially most powerful acts for service delivery by PGs, was included in the 1996 Act, but had disappeared from the, now valid, 1997 version.

Regarding the *exercise of executive functions*, the Act refers to Schedules 4 and 5, whereby schedule 5 is the list of what in many other countries would be considered as ‘core service delivery sectors’ such as education, health, road transport and agricultural extension. With regards to schedule 5, the Act uses the words that “subject to the provision of any enactment (wherever made or passed), a Provincial Executive may provide services for the province in respect of any of the matters mentioned in Schedule 5”. Because this schedule is the main service delivery listing, we may need to scrutinise the sentence a little further:

- “*subject to the provision of any enactment (wherever made or passed)*’ the PG “*may*” : hence in the absence of any specific devolution order or specific act, the services are *not* mandatory, and arrangements can be overruled by sector legislation.
- “*Provincial Executive*” – hence services are not delivered by the Provincial Government or the Assembly, but by ‘the Cabinet’;

Prior to winding up this section, two more things should be mentioned. Firstly, it should be noted that the function to make annual plans and budgets (and pass them legally by the assembly) is not explicitly mentioned in the Act (the way the Act is structured, we would have expected it under *Schedule 3* – legislative functions – as the budget is passed as legislation¹¹). The Act only speaks of ‘Appropriation orders’ (to be passed by the assembly), without referring to the PG financial years. Obviously annual plans and budgets could fall under the ‘Appropriation order’, but as is done in most other countries, we would have expected it to be the main mechanism of appropriation.¹² Secondly, the Act does not foresee any registry functions (such a civil registry, voter registry, legalisation of documents etc.) for PGs. In many countries such registry functions are one of the most frequent contact points of people with their local government.¹³

2.3 Existing Devolution Orders and Agency Agreements

Whereas schedule 3 defines the devolved legislative functions plus a few service delivery functions, schedule 4 the delegated statutory functions emanating from national legislation and schedule 5 service delivery functions that *may* be undertaken by PGs, the potential of the legal framework for decentralised service delivery lies in the agency agreements (for the delegated functions) and the devolution orders.

¹¹ It would have been an example of a ‘provision’ function as referred to in footnote 9.

¹² The PGA only mentions that “the executive shall lay before the Assembly, before commencement of each financial year, estimates of revenue and expenditure’ (Art 38)

¹³ For Solomon Islands, the civil registry function sits with the Ministry of Home Affairs, and this function is reportedly only performed in Honiara, although originally it fell under the Local Government Act.

Devolution orders

A number of devolution orders were signed in the period 1984 -1992, by province and often called '1st or 2nd devolution for province so-and-so '.

Table 2.3 : Devolution orders, references by province

Province	1st devolution order		2nd devolution order	
Malaita	X	16/1984	X	62/1984
Makira	X	25/1983	X	48/1984 *)
Western	X	55/1984		
Isabel	X	37/1984		
Central	X	136/1984		
Guadacanal	X	47/1984	X	90/1985
Temotu	X	49/1984	X	131/1992
Choiseul	X	132/1992		
Rennell & Bellona	X	29/1995		

*) A third and a fourth devolution order were also signed for Malaita : 89/1985 and 21/1987

As far as known, no devolution order was signed after the PGA (1997), and the ones signed in the 1980s are 'no living documents'. It was even difficult to trace copies. Only copies of the ones for Malaita province were obtained.¹⁴

Based on the latter, and corroborated by information obtained through interviews, we can assume that the 1st devolution orders were generally about (i) establishing the PGs under the PG Act (as they were before established under the Local Government Act), (ii) transfer the assets from the old assemblies to the new ones established under the PG Act (all to be vested in the name of the Premier) and (iii) specifying in how far provisions of the Local Government Act remained in effect.

Although others mentioned that the 1st devolution orders were about transfer of Central Government property (offices, houses, but also roads etc) to the Provincial Governments, such is not immediately evident from the order (for Malaita) we saw. The subsequent devolution orders though, were about handing over (further) assets (eg two boats to Guadalcanal) or specifying (2nd, 3rd and 4th order for Malaita) which legislative and statutory competences were given to the province (and for which the orders referred to particular items in the relevant schedules of the 1981 Act). As all these matters have become 'mandatory' under the 1997 Act, the respective devolution orders have by-and-large become redundant.

Through the PG Act (1997) and the devolution orders it refers to, the reference to the LG Act is still in force up to to-date. This link is remarkable, because making reference to Local Governments appears nowadays almost 'politically incorrect', but also interesting as the Local Government Act appears to be much more service delivery oriented as compared to the Provincial Government Act.

¹⁴ In 2004 Cox and Morrison wrote : "Key documents such as devolution orders are not held by provinces, nor by the [Ministry], which means that whatever may be theoretically be in place in the formal legal system, in practice these documents are not being used to determine roles and responsibilities of Provincial Governments." This is still valid to-date, albeit that the legal officer in Malaita PG could at least provide us with copies. The premier, however, confessed he had never seen the orders.

For example, under the heading 'duty to discharge function', the LGA opens with the statement: *It shall be the duty of every Council established under this Act to discharge the functions conferred by this or any other Act and generally to promote the health, welfare and convenience of the inhabitants of the area of its authority and to maintain order and good government in such area; and for these purposes a Council may, within the limits of the functions so conferred, either by its own officers or by duly appointed agents do all such things as are necessary or desirable for the discharge of such functions.* The schedule of functions that Councils shall or may perform, depending on their capabilities, and as specified in the warrant establishing the council, may be a little outdated, it is as far as service delivery expectations, much more clearer than the PGA. For purposes of comparison we have copied the relevant schedule of the LGA in Annex 2.

Agency agreements

With regards to Agency agreements the PG Act not only foresees in agreements that transfer functions from CG to the PGs (which are, as per the definitions given above, delegated services) but in fact describes agreements between PGs and any other public agency regarding transfer of functions or provision of services.

The Agency Agreements that were signed reportedly were dealing with a form of the latter, whereby CG committed to make staff available to the Provincial Governments. In many cases, however, the staff needed or requested was not available, as a result of which Provinces remained under staffed.

Concluding remarks on the PGA, devolution orders and agency agreements

The PG Act (1997) is focussing especially on PG legislative functions and ignored the core service delivery functions. In fact, it makes a distinction between legislative functions on the one hand (which could be PG 'own' functions or delegated functions) and PG executive functions on the other hand. This distinction, which stems from the recommendations made by the special committee that advised government on the legislation for the provincial government in 1979, does not seem to be in tandem with the present definitions of decentralisation as given above – as it blurs models, especially when the areas of the legislative functions are not at par with those for the executive functions.

Yet, under the various PG Acts there was potential for actual decentralisation through the mechanism of devolution orders and agency agreements. In the period immediately after the PGA (1981) was adopted, a few devolution orders were signed and at the same time the service grants were introduced. However, these devolution orders did not transfer any major service delivery function to the PGs. The fact that they were to be signed province-by-province and topic-by-topic, prevented them becoming generic instruments for decentralised service delivery.

2.4 Decentralised Service Delivery under the Draft New Constitution (2009)

For some, the attention given to the PG Act 1997 may be overdone, as it may be overtaken by a new constitution of which a draft 2009 is available. However, as long as there is no new constitution, PGs will be bound by the existing legislation, but nevertheless it will be useful to see how the draft constitution deals with decentralised service delivery and whether comments made in the previous paragraph are addressed.

The most prominent elements of the draft constitution are that it lays out a federal government structure, whereby provinces would become the states, the rotational president, and the re-introduction of a third tier of government in the form of community councils.¹⁵

As far as functional assignments (and service delivery) is concerned, the draft legislation distinguishes :

- Functions for which the Federal Government makes laws and executes them;
- Functions for which the State Governments make laws and execute them; and
- Functions for which both levels of governments can make laws.

For each of the three categories a list is provided (List I, II and III under schedule 5), whereby List I is exclusive domain of the Federal Government, while List II is described as a mandatory function for the States. For the list of concurrent functions (List III), the draft states that 'the executive authority of the State Government shall not extend to any matter in List III, except as may be provided by Federal or State law' (Art 158A sub 2), while 'the exercise of concurrent functions shall be done with prior consultation between the state and the federal government' (Art 158B).

The draft has a very innovative 'reversed decentralisation' or lower levels of government delegating functions to higher levels of government :

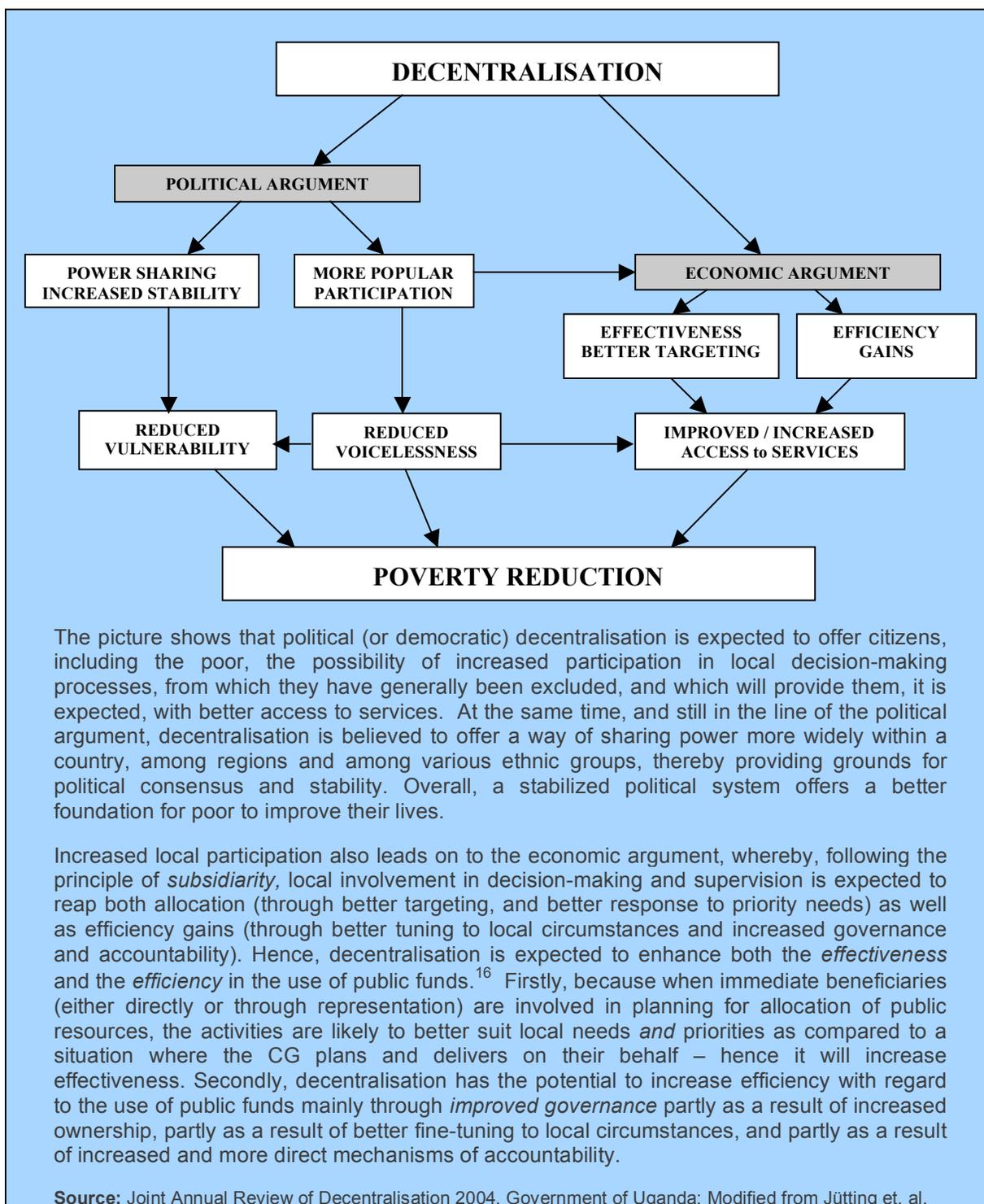
A state law may provide that the executive authority of the federal government shall extend to the administration of any specific provision of state law and may for that purpose confer powers and impose duties on any authority of the Federal government.

Where any functions are conferred by State law on any authority of the federal government, the State government shall make financial payments to the federal government as may be mutually agreed upon (Art 158A).

In Annex 2, we have provided the overview of Lists I, II and III, but before we look at these in more detail, it may be good to interject some theory on the rationale of decentralisation and the criteria used for functional (or expenditure) assignments as based on international literature and best practices.

¹⁵ As said above, the sub district level Area Councils were abolished with the PG Act 1996/7

Textbox 2.2: Decentralisation and Poverty reduction; line of argumentation



¹⁶ In simple words *effectiveness* relates to ‘doing the right things’, which means, making the most appropriate choices regarding *allocation* of scarce resource to optimize their utility. *Efficiency* relates ‘doing things right’, that is optimizing resource use once decisions regarding the desired output and impact are made; Making the right choice amongst various options in view of solving the problem, is about effectiveness. Once an option is chosen, the way it is implemented, ensuring maximum output against costs, relates to efficiency.

Text Box 2.3 : Principles of expenditure assignments

Another word sometimes used for functional assignment, especially by those working on fiscal decentralisation is 'expenditure assignments' referring to areas where sub-national governments have authority and or obligations leading to expenditure. The word 'functional assignments – defined in the context of intergovernmental relations as the allocation of roles, functions and tasks between different levels of government- broader than 'expenditure assignments as it also includes, revenue assignments, as well as activities/functions that not necessarily require expenditure (e.g. regulation). But whereas revenue collection is a means in order to be able to provide services, the attention and starting point of designing an intergovernmental fiscal system, normally lies with defining the expenditure assignments.

Experts in the field of expenditure assignments, however, appear to agree that there is no one single best way for deciding which level of government should be responsible for the provision of particular government services as they depend on a number of factors that may vary from country to country, but also may depend on the objectives of decentralisation e.g. the political argument versus the economic argument of efficiency and effectiveness (see Textbox 2.2).

Regarding the efficiency argument, there are a few principles that would guide decision making regarding the allocation of expenditure assignments, the predominant one being the principle of subsidiarity (also mentioned in Textbox 2.2), which means that responsibilities are best placed at the lowest level possible as such leads to a better allocation of resources (as the close to the beneficiaries the better they will know what they want and need) and to better use of the scarce resources (as there is closer oversight).

There are, apart from considerations of sectors that clearly represent national interest such as defense, foreign affairs etc, a number of considerations that may mitigate against pushing activities further down, which are :

- (i) externalities also referred to as the benefit area
- (ii) economies of scale
- (iii) capacities at the local level.¹⁷

For example, the benefit area for sanitation services is clearly the local community, but for air traffic control it would be the entire national territory. Assigning public services with wider benefit areas to smaller units of government is likely to result in the inefficient and/or under provision of services; e.g. if a tertiary hospital providing regional services is to be financed only by a single municipality, with other municipalities free-riding, this is unlikely to work well.

In many countries, even those with decentralised arrangements, drug procurement is done centrally, because of the economies of scale (quantum discount). Also the issue of capacity and capability may play a role, and obviously functions can not be decentralised to a level that lacks the capacity (although this should not be misused as an argument against decentralisation as is often done; more often than not local capacities are bigger than thought provided genuine responsibilities are transferred in a well defined framework that includes standard setting, supervision, accountability, mentoring and capacity building support).

Finally, expenditures undertaken by government for equity or income equalization reasons, such as social welfare, are generally thought to be the domain of the central government, as local or regional governments would not be able to sustain independent programmes of this nature. Yet they can be given implementation tasks.

Application of the above rules will facilitate the assignment of expenditure responsibilities to different levels of government. However, the rules are unlikely to yield a unique answer in every situation, as circumstances (benefit areas, economies of scale, capacities) are different, but also because different weights may be given to the objectives of efficiency, equity, and stability. Moreover, the assignment of functions is not necessarily static and may change over time.

Source : various including UNDP (2005), GoTL/UNCDF (2009) and GTZ (2009)

¹⁷ For East Timor, these three characteristics are mentioned in the section of the LG Act that describes in general terms the functions that can be decentralised and those that should not be decentralised.

The major objective for most forms of decentralisation around the world is to *enhance the participation of citizens in planning and strengthen, through various means, the “voice” of citizens in influencing service delivery providers.*¹⁸ As illustrated in Textbox 2.2, decentralisation has both a political and a technical angle, whereby it should be noted that even the latter objectives of efficiency and effectiveness are only achieved through the elected representation. More than in many other countries, in Solomon Islands the political argument is at least as important as the objective of efficiency and effectiveness.¹⁹ Yet, in the end, a balance between both objectives needs to be struck and in this context it is important to critically look at the functional assignments. However, and even though there is no right or wrong in the final position taken, it is possible to provide technical guidance on the basis of often applied criteria (see Textbox 2.3).

If, with these remarks in mind, we go back to Schedule 5 of the draft Federal Constitution, the following remarks can be made, assuming that the legislative functions as defined will also relate to executive functions²⁰ :

- for several sectors, the functions as defined for the States are the same as those mentioned for concurrent functions, which, given the current non-clarity of roles does not seem a good idea, and should be reduced (and the provinces already proposed so)
- some functions –such as road infrastructure are missing; and
- most functions appear to be proposed for transfer to the States ‘lock, stock and barrel’, which seems to ignore or undervalue the roles that central (federal) ministries would continue to play vis-à-vis the service delivery roles in the states.

The latter point also applies to the present PGA (1997), whereby roles of Ministries are insufficiently spelled out in case functions are transferred. In any decentralised system, functions of policy-making, standard setting and oversight would remain a very important role for central ministries. But, for example, even functions like inspection for the education sector would normally remain a central government function as one would normally wish to guarantee uniform minimum standards across the country – certainly in cases where the central government grants fund most of the education.²¹ Hence, there may be scope to look at the lists, not only from a political perspective, but also from the angle of functional assignments and the criteria as above provided (see Textbox 2.3), and –in so far as not yet done–,

¹⁸ See World Development Report 2004

¹⁹ But there are ample examples where the political argument has been important, one of them being Uganda, where Museveni’s rebel movement used, in the early 1990s, decentralisation as a means to bring and keep the country together, and muster support for his central government.

²⁰ In the present PG Act, this is not the case. For some areas/sectors. PGs have legislative powers or obligations, but no executive powers or obligations and vice versa (see PGSP Programme Document Annex 6 p12/13).

²¹ As Ferrazzi (2006) points out, such a central government function could still be discharged in various ways ranging from a situation where the Ministry of Education (MoE) would be carrying out the function from headquarters (extreme centralization) to setting up regional inspection offices (de-concentration) to making a deal with the sub national government offices (the provincial governments) to take up the task in strict conformity with central directives (delegated or agency task).

engage in a process that also involves the concerned line ministries. As said, there is no single best way of allocating functions across levels of government, and unbundling of functions is a tedious process, yet it may have to be done.

2.5 Concluding Remarks on the Legal Framework

In a way it appears that the various rounds of new legislation have not always served the functional assignments well. As we noted, the Local Government Act had a very clear list of activities that councils were allowed or obliged –depending on its initial instructions- to perform. The PGA (1996) has a more systematic set up (as compared to the PGA (1997)) where it first described the responsibilities of the PGs in terms of national legislation, then defined the area for which PGs could make own legislation and then defined the service delivery obligations.

The PGA (1997) is less elegant in defining the functions of the PGs, firstly as it nowhere explicitly enunciates the roles of PGs (Cox and Morrison, 2004). These roles are at best implicitly described through a definition of the legislative powers in Schedules 3 and 4 of the PGA (1997), while schedule 5 is in fact a concurrent list. As the Education Act is missing from the PGA (1997), the latter provides limited roles for PGs in terms of service delivery, apart from the sectors (erroneously) mentioned in schedule 3 (see para 2.2).

The legislative and regulatory functions given to PGs under the PGA (1997) are largely in the context of national legislation. As we will see in the next chapter, these functions are hardly performed (and a mechanism to correct this is absent) while PGs appear to have focused on legislation in those areas where income can be generated. This type of legislation in particular, but regulatory functions in general, will not make PGs popular institutions. Moreover, in situations where accountability is weak, legislative and notably regulatory functions are an easy source of corruption.²²

Another aspect regarding the legal framework is the fact that the PG Act with the devolution order or agency agreements with arrangements by province and by sector/topic provides for a highly diversified system. Apart from this being very cumbersome, it also has the potential of becoming very messy, un-transparent and difficult to implement. The fact that it was difficult to find any devolution order and impossible to trace any agency agreement is just a glimpse of the problems such a system may encounter. In general, with a system that allows sector-by-sector different arrangements for each province, it is clear that it will be impossible to build national systems, for example, with regards to funding and staffing.

Literature on functional assignments (see GTZ, 2009) mentions the distinction between uniform and a-symmetric functional assignments – but concludes that

²² In East Timor, when designing functional assignments for the districts to be established, a deliberate choice was made to first transfer service delivery obligations in major sectors (such as water and health) together with some registry functions (civic registration), and only transfer regulatory functions, once the districts have proven themselves to have that capacity.

quite often the central government does not have the capacity to manage highly asymmetric systems, and that such systems would only be justified if the number of 'exceptional' sub national governments is limited to a few.²³ In general, it appears advisable, to design as much as possible a basic uniform system –and allow exceptions on top of that if needed– rather than designing extremely free systems and seek the common denominator afterwards. This applies in particular when capacities are limited, and capacities are generally more limited in a relatively small country.

The list of functional assignments in the draft Constitution is certainly clearer than the one in the PGA (1997), but still is lacking the service delivery perspective. Also the functional assignment list included in the draft constitution focuses more on 'legislative functions' rather than on 'executive functions', while roles and responsibilities for the central government ministries are insufficiently clarified.

Systems of decentralisation-by-devolution are normally anchored in law, often the constitution, which would describe the principles of the system of government and public service delivery. Normally, this is done in fairly general terms, to allow more detailed changes, which are bound to occur or be needed over time. For that reason the question can be asked whether the constitution is the best place to describe functional assignments. In PNG, even the *Functions and Funding Bill* does not describe the functional assignments, but only the principles according to which these can be allocated (or withdrawn), in this case by the head of state, which in fact is by cabinet decision. Obviously, a balance needs to be struck between ensuring that, once agreed, the devolved model can not be easily tempered with (e.g. by line ministries calling back functions), and, on the other hand, avoiding to lock into legislation that can hardly be changed, functional assignments that are bound to change over time. The draft constitution attempts to avoid such changes by providing very general description – but in actual fact, for functional assignments to work, much more detail is likely required.

As nobody can predict with any degree of certainty if and when a federal Constitution be adopted, the existing legal framework will for the time-being remain the point of reference. Although the PGA (1997) is not ideal, if some of the provisions were better and more systematically worked out and adhered to, it would provide the necessary instruments to start working towards a system of functional assignments that would not be too far away from the service delivery model as proposed in the draft constitution. In fact, as far as service delivery is concerned, a largely devolved system as would be possible under the existing PG Act, is quite similar to the service delivery model described in the draft federal constitution. Or, as GTZ (2009) puts it : 'Unitary and federal systems have much in common when it comes to functions assignments'.

²³ It should be noted that the draft constitution, under arrangements that were above referred to 'inverse decentralisation', potentially also would allow for highly asymmetric systems.

3. Description of Actual Service Delivery Mechanisms

3.1 Service Delivery by Line Ministries

3.1.1 Introduction

In this section, we will present, on the basis of some initial discussions with representatives from line ministries as well as discussions with staff of provincial offices, a first snap impression of the way in which the sectors of health, education, agriculture and infrastructure deal with functional assignments. The sections include anecdotal evidence and do in no way pretend to be anywhere near a comprehensive overview, but are meant to assist in starting the discussion. First a brief overview is given by sector, before drawing some tentative conclusions, after which we will look at the service delivery by the provincial governments – to wind up the chapter with more general conclusions also in relation to the legal framework as described in the previous chapter.

3.1.2 Education

Out of the four sectors looked at, education is probably the only sector where –at least potentially- some roles and responsibilities are formally delegated and/or devolved to the Provincial Governments, through the Education Act 1978.²⁴

The latter act appointed Provincial Assemblies, but also the Ministry of Education, as well as a number of churches, as Education Authorities. In the Act an Education Authority is defined as “a person or organisation (including any Provincial Assembly) within the Solomon Islands approved by the Minister as being responsible for the establishment and maintenance of any school or schools”.

Education Authorities (EAs) are thus responsible for the operation of schools, their equipping and maintenance, as well as provision, support and training of teachers (Education Strategic Framework, 2007-2015, June 2007). The common interpretation is that the Provincial Education Authorities are the Authority running the public schools in the respective provinces.²⁵

In Guadalcanal, it was mentioned that the EA is headed by a board, that the Provincial Minister serves as chair and that the board had only met once since 2007. According to the Ministry, there are only plans to create such boards.

²⁴ As mentioned in the previous chapter, the Education Act is no longer referred to in the PGA 1997, eg schedule 4. It is not known whether this is by mistake or choice.

²⁵ In the terminology of the previous chapter as a ‘delegated or agency’ function, although, in principle and according to the law, it could also be the Ministry running the schools as a de-concentrated function. It depends on ‘who owns the schools, which, as said, is generally assumed to be the province, probably following the handing over of assets with the first devolution orders (see previous chapter).

The staff in the offices of the Education Authority (which are *de facto* the provincial education offices) is seconded by the Ministry of Education and includes inspectors.

The office of the Education Authority is headed by a Chief Education Officer who is answerable to the ministry, the provincial secretary and to the provincial minister. For all seconded provincial heads of divisions, the letters of posting (issued by the Ministry of Public Service) are said to read 'you are posted in province X and answerable to the Provincial Secretary'; For other seconded staff, the letter reads that they are reporting to the provincial heads. In actual fact, the reporting lines for the provincial heads that matter, are those to their parent ministries.

The Education Act regulates the teaching profession where it states that "no person shall be employed as a teacher in a school unless he has been registered as a teacher by the Permanent Secretary under the provisions of the Act". Hence, the Education Authorities can only employ teachers from within the approved pool.

The Act furthermore establishes a 'Teaching Service Board' that, amongst others, may be invited to advise the Permanent Secretary to register a teacher and that shall 'confirm all appointments made to schools and the relevant salary scale entry point'.

Based on a teacher establishment agreed between the education authority and the Ministry (or in practice set by the Ministry on the basis of certain criteria), the Education Authority is the employing agent (with a right to hire and fire within the confined boundaries of the labour Act). The payroll is managed by the Ministry and salaries are paid directly into the teachers' accounts. In the national recurrent estimates, the teacher salaries are shown, by province, on the Ministry's budget.

In the (early) 1980s, there existed an education grant that was transferred to the Provincial Governments via the Ministry for Provincial Governments for the funding of Provincial Education Plans. The grant was later abolished when it did not lead to the expected results. Only in the early 2000s a new grant was introduced. This grant –called 'student grant'– is transferred directly to the schools. The amount is proportional to the number of pupils in the school, at a present rate of SBD220/student per year for primary (2009; Standard 1-6) and SBD 500 for secondary (2009; F1-7).

The Policy Statement and Guidelines for Grants (October 2008) and the School Financial Management Guidelines & Manual' (2009) spell out for what the grant may be used (which is scholastic materials including books, school furniture, cost of boarding, utilities, admin, and repair and maintenance of school buildings and furniture), the planning for its use as well as how the monies are to be accounted for.

In addition to the student grant, there is a school administration grant (a one off payment to assist schools at the beginning of the first term to meet the fixed administration costs), and a grant for the education authorities to meet their operational costs.

Latter two grants are put in place in response of Provincial Governments not being able to cover the costs they are/were supposed meet such as office costs (being the custodian of the office buildings) and some secondary benefits of the teachers (being the formal employer of the teachers).

The Provincial Secretary is together with the CEO responsible for CG resources coming to the education authority (he/she co-signs the cheques). Yet the Ministry's Permanent Secretary remains the accounting officer for the funds. In the national budget, the funds for the salaries of teachers and the school grants are only presented as consolidated figures and hence provinces cannot derive 'indicative entitlements' from it.

The Financial guidelines clearly indicate that 'the education authorities are responsible for the monitoring of the receipt, utilisation, training in, reporting and retiring of the school grants for schools within their authority'. Otherwise, PGs are pretty absent in the said documents except for where it mentions that 'the cost of education must be shared between the National Government, Provincial Government, Education Authorities communities, parents and the private sector'. As written, it suggest that for the ministry the PG and the EA are two distinct bodies, which is in fact the actual situation as PGs have very limited 'feeling of ownership' over the Education Authorities.

The Ministry is clearly aware of the issues of reporting lines and accountability as the Education Strategic Framework 2007-2015 states that : "The provisions of the Education Act regulations and guidelines have not been rigorously applied for a number of years, with the result that administration of the systems has become ad hoc and based on precedent. Some decisions have been inconsistent with the underlying Act. [...] There is a need to review administrative arrangements, make revisions as necessary, including clarification and further specification of roles and responsibilities of the MEHRD, Education Authorities and Principals and to build and enhance the capacity of managers at all levels, especially at the provincial authority level".

3.1.3 Health

As for education, in the early 1980s there was a health grant going to the provinces via the Ministry of Provincial Government – but as monies did not reach or were insufficiently used to effectively fund health services delivery, the grant

was stopped and later replaced by a grant that exists till to-day, being the sectoral health grant, budgeted for under the recurrent budget of the MoH and sent to an account managed by the Provincial Health Director – being the local accounting officer, on behalf of the Permanent Secretary to whom he/she reports. As for education, there is an accountant seconded to the provincial office.

The grant typically funds recurrent costs such as additional (locally recruited) staff, transport and other operational costs (except drugs and other consumables that are provided directly).

Starting 2010, there will be two separate grants, one for hospitals and one for primary health care.

The total number of staff working in the health sector paid directly or indirectly through the Ministry of Health and Medical Services is reported to be 2,630 persons, 1,630 of which are working in the provinces (including NGO facilities). Out of the staff in the provinces, some 770 are direct wage employees, paid for under the health grant. The latter persons are recruited by the Provincial Director Health, but offered a contract of employment by the Provincial Government. As the grants are on the budget of MHMS, they are not shown on the PG budgets. In the national budget, however, the figures are shown by province (as are the cost of the seconded staff). Hence, for the health sector, provinces can get an idea of 'their' allocation through the national budget.

The Ministry is presently unhappy with the arrangements, mainly for two reasons: (i) that there is undue influence of the PGs on employing particular persons under the grant and (ii) that the Provincial Director has insufficient control over some of the employees paid for under the grant, notably for job categories other than professional health staff (eg. technical staff that is engaged by the PGs for other works). A committee has been set up to review options to rectify this situation.

Although –as for education- the Provincial directors are answerable to the Provincial Secretary, their contact is intermittent – even when in the same building (Guadalcanal). In Malaita, the Provincial Director was in position for 4 months, but had only seen the PS once to introduce himself. In the same period he only saw the provincial health minister once, informally during a function they both attended.

When some time back the dispensary in Auki had to close because the land where the building was standing had been sold to a private investor, the PG is reported to have neither acted nor reacted – giving the impression that it considers health service delivery a matter of the Ministry of Health.

3.1.4 Agriculture

The mission of the Ministry of Agriculture and Livestock reads : *To promote and lead agricultural development in the Solomon Islands to a profitable and environmentally sustainable future by being the premier provider of information, research, extension education, regulatory and other services to improve the agricultural sector.* Hence, the ministry considers itself as an implementer.

As per January 2009, the Ministry had 288 established posts, of which 247 were filled, including an extension staff of 139. In addition, there were 52 non-established positions, including 28 extension staff. Most of the extension staff is working in the provinces, probably some 150 in total. Apart from extension staff, there are also few staff seconded to the provincial level by the research department as well as livestock department. So, the Ministry has staff in all Provinces, mainly teams of extension staff and office support staff, all seconded from the Ministry, headed by a Chief Field Officer.

As for education and health as discussed above, the Chief Field Officer (CFO) is formally (though the letter of posting) answerable to the Provincial Secretary, but in most cases their relation is 'distant'. One CFO said he has weekly contact with the Ministry, but only met his Provincial Minister once since the last elections.

Regular contact with the ministry is a requirement as all operational budgets, as well as all cash and accounts are kept in the Ministry (by the respective heads of departments such as extension, research, livestock). For every single expenditure the CFOs need to forward a request to one of the directors. A complicating factor is that the Ministry recurrent budget does not show any allocation for any of the provinces, hence the CFOs are at the mercy of the Directors.

The informal understanding between the Ministry and the Provincial Governments is (or at least such is the understanding of the Ministry) is that the PGs will provide office facilities and pay the utility bills. Failure to pay such bill for a sustained period recently made the Guadalcanal Agricultural office to move to premises rented by the Ministry. In Malaita the utility bills are already paid for by the Ministry. The offices the latter division is using are offices built by Central Government for the same agricultural extension services in the late 1950s; They were then handed over to the PGs (in the 1980s) and continued to be used by the department.

As far as known, no (written) agreements are made between the Ministry and any of the provinces regarding a division of functions, staff, budgets or arrangements for implementation. As a consequence, at present agricultural sector service delivery –as far as under the purview of the Ministry- is provided in a centralised (most services) or de-concentrated (extension) manner.

3.1.5 Infrastructure

Despite roads and road maintenance (as well as construction and maintenance of harbours and jetties) being listed in the 3rd schedule of the PGA (1997), the Ministry considers itself responsible for construction and maintenance of all government infrastructure, (including roads, bridges, harbours), as well as government vehicles.

The Ministry has a number of departments and all of them –with the exception of mechanical transport services (see below)- are run as a centralised operation. The Ministry has a total staff of around 130, including some 13 engineers, all of whom are based in Honiara. The only staff posted in the provinces are mechanics that run the workshops that look after (CG) government vehicles.

Budgets are centrally kept and controlled. No specific allocations for provinces are made in the recurrent budget; sometimes in the development budget this is naturally done (for pre-selected site specific projects). At best, Provinces are consulted prior to plans being made – or rather, provinces need to lobby to get their needs reflected in the national budget, which would normally relate to some types of investment costs (construction or repair). As far as known, no agreements are made with any of the provinces regarding staff or budgets or arrangements for implementation.

3.1.6 General Features for the line ministry service delivery

When discussing and analysing systems of decentralisation, it is useful to distinguish between models of **de-concentration**, whereby resources (such as civil service staff and budgetary funds) are merely reallocated from central government to a lower administrative unit (e.g. a province), but whereby the final decision-making authority remains with the central government (and local staff answer to their upstream superiors); models of **delegation**, whereby certain specified tasks are undertaken by semi autonomous bodies at a lower level of government who have some own responsibility in making some management decisions (to increase efficiency) but normally have little latitude in making decision on allocations, while the party that transferred the function retains the final responsibility; and models of **devolution**, whereby **political functions** are transferred to lower levels and decisions are made locally, amongst others with regard to staffing and budgetary allocations (see also Text box 2.1).

Table 3.1 provides, in a simplistic manner- the relation shop between these types of decentralisation (or no decentralisation at all) and the pillars of decentralisation being financial, administrative and political decentralisation. For a devolved systems, all elements need to be in place, while for the opposite –a fully

centralised system-none of them is in place. Table 3.2 – borrowed from a report for the Ministry of Local Administration in Yemen, prepared by Gabriele Ferrazzi, provides more details on the typology of decentralisation.

If we compare the existing practice of service delivery by the four Ministries, we first of all note that reality does not fit in the theoretical boxes and that actual systems are a mixture. For example, in all provinces there are forms of political decentralisation in the sense that an assembly and an executive is established, while in cases the provincial Ministers do sit in the offices of the line departments. However, their actual influence on policy and decision-making is minimal. There is no or very little accountability from the divisions to the executive and the assembly.

Education comes probably closest to the delegated (or Agency) model, even though the funding is nowhere shown in the PG budgets (but on the CG budget), despite the fact that the Provincial Secretary co-authorises payments (e.g. of the Education Authority grant).

The health sector operates under the de-concentrated model – with the anomaly that part of the staff (those paid for under the health grant) have a contract with the Provincial Government.

Agriculture works under system that (the Provincial Minister apart) is a mixture of a centralised and a de-concentrated model. Some Divisions in the ministry are centrally organised, and even those that have staff out in the provinces, have not given these levels any responsibility in terms of finances or staff.

The ministry of Infrastructure finally, and certainly for its roads section, is operating on a fully centralised system, with all staff and financial resources being kept at the Ministry.

From the above, three conclusions can be drawn.

- Firstly, that there is a wide variety of models across sectors.
- Secondly, that none of the four sectors applies anything close to a devolved model.²⁶
- Thirdly, for the sectors that operate on a mixture of de-concentrated or delegated models, there is a lot of confusion, mainly because the arrangements for staff, financial resources and accountability / reporting are not aligned with the model as operated. Such confusion can only be resolved by first resolving the question which mode of decentralisation is pursued.

²⁶ In case one speaks of devolved models, such normally refers to situations where the same applies for a couple of sectors, whereby the (general purpose) sub national governments have discretions to make allocation decisions across sectors.

Table 3.1 : Relation between Types of Decentralisation and its Pillars

	Pillars :	Management	Administrative	Fiscal	Political
Types of Decentralisation :	Definitions \ descriptions	The sub-national level has (some) management / implementation responsibilities	The sub-national level unit has staff over which it has authority / powers to hire-and-fire	The sub-national level unit has its own budget (and hence some discretion over financial resources to discharge of the functions	The sub-national level has an elected representation that can make decisions and that takes responsibility for functions transferred to this level
Centralised	Functions are discharged off by HQs / from HQs	-	-	-	-
De-concentrated	There is staff posted at the sub-national level, and some (limited) management and (service delivery) functions have been shifted to them. The HQ remains fully in control and fully responsible.	✓	-	-	-
Delegated	Central government lends (certain) authority to lower level of government with the understanding that the authority can be withdrawn (lower level can take decisions but they can be overruled – and decisions making powers can easily be withdrawn)	✓	✓	✓	-
Devolved	Authority over financial and administrative matters is transferred to sub-national governments as statutory bodies	✓	✓	✓	✓

Table 3.2 : Typology (modes) of decentralisation

Aspect of the service	Deconcentrated Task	Delegated/Agency Task	Devolved function
Instrument	Ministerial decrees and circulars	Law, regulation, government decree, or ministerial decree/circular	Constitution, law and related regulations
Source and receiver of authority	From Ministry, "delegated" to its own dispersed branches	Representative body or ministry/agency to local authority (or parastatal/semi-independent bodies)	State, or representative body of higher level to local authority
Funding	From ministry to its branches directly (does not show in local authority budget)	From the assigning entity to the local authority (shows in its budget)	Receiving level (assigned revenues or block or conditional grants)
Staffing	Branch staff are central level civil servants, part of the Ministry establishment. Their duties may include coordinating with LAs.	Local authorities or semi-independent bodies have own staff, but operate under a national frame. May also use seconded staff of central government.	Local authorities have own staff, but operate under a national frame; considerable discretion in hiring, firing, size of establishment etc.. May also use seconded staff of central government, who is treated essentially as LA staff.
Internal organization discretion	Branches are structured by the Ministry, though often approved at cabinet or higher level	Local Authorities or semi-independent bodies can shape their units within a national frame, and handle tasks in units of their choosing	Local authorities can shape their units within a national frame, and handle functions in units of their choosing
Implementation Discretion	Variable but usually limited by Ministry regulations, procedures, standards and instructions	Considerably constrained by policy, procedures and standards set by assigning entity; some discretion on implementation.	High degree of discretion, but may be limited somewhat by national standards.
Reporting/ Accountability	To Ministry headquarters	Primarily to the assigning entity, but also to the Local Council and citizens	Primarily to citizens of receiving level, through the Local Council and directly; vertical accountability remains and in principle is more pronounced in early stages of decentralization

Source : Ministry of Local Administration, Yemen by Gabriele Ferrazzi consultant for UNDP/UNCDF, 2006

3.2 Service Delivery by Provincial Governments

3.2.1 Historical perspective

For obtaining a good picture of functions played (that is: services delivered) by Provincial Governments, it is useful to first put the historic perspective. Prior to independence, and following the Local Government Act, service delivery was organised in a fairly de-concentrated fashion, with service delivery obligations for the area councils, which were situated at a sub-district level, operating under the direct purview of the (colonial) District Officer, who was the Central Government Representative in the then (4) districts.²⁷

Initially, the Provincial Councils were created under the Local Government Act, but brought under the PGA when the latter was adopted in 1981. By the devolution orders, all (or at least a major chunk) of the assets of the line departments (such as office facilities and staff houses) were transferred to the new provincial governments. At the same time the eight Service Grants were introduced.

Due to a variety of reasons, including lack of staff on the ground and inappropriate use of the funds, the honeymoon between PGs and line ministries was quite quickly over, and already from the mid 1980s the line ministries started to run their own shows again and took back –in terms of functions- whatever they had initially given away, which may –in cases- not have been too much apart for the assets in the first place. Only for the teaching staff –where the provincial education authorities became the employing agent- was the employment formally handed over to the provincial level.

Since the late 1990s, and especially since the 2000s and the RAMSI intervention, some line ministries got more resources, and started introducing sector grants (such as the health grant, the school grants and the education authority grant) which now also increasingly cater for the recurrent costs, such as those related to operational office costs. Some of these operational costs had been considered a PG responsibility as they were the custodians of the assets and (as for education) the formal employer – through the education authorities.

As the PGs did not have the resources, or had other spending priorities, in the end, the various line ministries as describe above have started to cater themselves for the various operational costs. The offices of the line ministries therefore have, over the past few years, become more independent and estranged of PGs, rather than integrated and/or synergetic. And this has resulted in the present situation showing different, non –aligned systems of service delivery.

²⁷ The District Officer being the representative of the Central Government at the local level, working with area councils, likely explains why the Local Government Act is under the Ministry of Home Affairs.

3.2.2 The actual Services rendered from a political, financial and staff angles

Because of the complexity of the situation as it has evolved over time, it is not easy to give a straightforward description of the services as provided by the PGs to-date. Below, we will piece a picture together, first by making some remarks on the 'political' functions and then by looking through the financial and human resource prisms.

The political functions of PGs regarding service delivery

Apart from actually delivering services, there are functions that the PGs are supposed to play, such as (i) the legislative functions (schedules 3 and 4 of the PGA) as well as (ii) the oversight functions, whereby elected members of the assembly –through the executive- are supposed to take ensure that government takes care of the interests of the provincial population.

As discussed above, the PG Act considers these *legislative functions* as the most important. No exhaustive overview of all legislation passed by PGs is available. Even though the Minister of PGIS has to assent all the laws as prepared by the PGs, no such register appears available at the Ministry.²⁸ Various interviews and anecdotal evidence, however, suggest that :

- most areas as mentioned in Schedules 3 and 4 remain un-addressed;
- most laws that pass do relate to appropriation orders (including the annual budget) or areas of PG income i.e. fees and licenses; and
- when laws other than those for fees and licences are passed, PGs find it difficult to endorse them.

In other words, the legislative function has so far had limited developmental impact, as it basically only reinforced (or rather, allowed to reinforce) the inward looking nature of the PGs.

Regarding the *oversight function*, there is an assembly and an executive in every province. As mentioned in chapter 2, the executive is often up to 50% of the assembly. As a consequence, in most provinces, the number of provincial ministers is considerable, far bigger than the number of divisions or departments with a substantial budget.

In some provinces, the Ministers do have an office with the division, even if those are staffed with only seconded staff. In some cases, Ministers do sit in the office – at least once in a while-, in other cases they do not. One head of division informed that since the last election he had seen the minister only once. Hence, in general, there appears to be very limited 'local policy making'.

The link with national policy making is weak. One Minister complained that since his election he had never met his national counterpart. Although provincial Ministers would be expected to make local policy, they would be expected to do so in the context of national policies – but that link appears absent.

²⁸ Nor was an effort made to compile one, but a recommendation is made to that effect (see Ch 5).

Funding of service delivery in PGs

For funding service delivery, PGs are dependent on own sources of income as well as grants. Table 3.3 provides an impression on the relative importance of service grants as share of the total budget and their relative size as compared to some sector grants.

Table 3.3 : PG own income and some grants, FY 2009 and 2009/10, in SBD '000

Provinces	PG income			CG Grants to de-concentrated units		
	Budget 2009/10			Budget 2009		
	PG own income	Service grants	Total budget	Health grant	School grants*)	Education Authority*)
Malaita	3,758	4,650	8,408	6,269	10,133	723
Makira	2,524	2,677	5,201	2,481	2,619	361
Western	11,505	8,129	19,634	5,093	2,154	129
Isabel	4,219	2,982	7,201	1,828	1,653	197
Central	1,827	2,453	4,280	1,828	1,859	185
Guadacanal	3,595	4,146	7,741	3,526	4,691	385
Temotu	524	2,832	3,356	1,959	1,607	199
Choiseul	3,854	4,265	8,119	1,646	1,572	194
Rennell & Bellona	549	2,276	2,825	522	135	69
TOTAL	32,355	34,410	66,765	25,154	27,732	2,442

Source: MoH, MoEHR, MoPGIS/PGSP

*) School administration grant and student grants; only Provincial authorities.

The data show that :

- The share of the Local Revenue constitutes a fair share of the total PG budgets (ranging from 15% for Temotu to 59% for both Western and Isabel). Not surprisingly though, actual revenues often fall short of the budgeted amounts and at the end of the year, the contribution of own revenues is often substantially lower (another PGSP study on fiscal decentralisation showed actual figures ranging from 2% for Rennell & Bellona and 49% for Western). Even though most PGs assure less than 30% of their actual income through own revenue collection,²⁹ it is an important activity of the PGs, which involves quite a number of the staff with the finance department often being the single biggest PG-department.
- The standard chart of accounts has in total some 145 different licences, fees and charges on the income side. For the type of organisation and the volume of the budget, this can hardly be very efficient and transparent way of generating income. But it keeps the finance department busy.
- The sectoral grants (called 'grants' although they are in fact intra-ministerial transfers), which are not reflected in the budgets of the PGs are substantial in size; yet the also show that the relative volume of the service grant is substantial.
- Finally, it should also be noted that the criteria used for the allocation of the sectoral grants were quite different from the allocation criteria for the service grants.³⁰

²⁹ Many PG are not doing bad as compared to e.g. own revenue collection of Local Governments in East Africa which is often below 5% of total budget across the board.

³⁰ See the UNCDF/MoPGIS/PGSP paper on fiscal decentralisation (2009), which states that the allocation of the service grants does not seem to be based on sound fiscal or policy arguments, but the result of 'years of indexing'

Table 3.4 : PG budget and spending by (group of) sector, FY 2009/10

	Budget FY 09/10					Expenditure FY 09/10 First 5-6 months *)		
	Total in SBD Mln	Share of budget spent after 5/6 months	Share of budget for :			Share of expenditure for :		
			Common services **)	Works, education commerce	All other sectors /divisions	Common services **)	Works, education commerce	All other sectors /divisions
Choiseul	7.7	34.5%	40.4%	40.4%	19.1%	63.4%	27.3%	9.4%
Guadalcanal	7.8	27.8%	56.8%	25.9%	17.3%	72.4%	21.6%	5.9%
Malaita	7.7	23.4%	47.0%	25.1%	28.0%	53.6%	20.0%	26.4%

*) 6 months for Choiseul and Guadalcanal; 5 months for Malaita

**) Core services : Office of the premier, assembly, Office of the Provincial Secretary, Finance and Planning

Table 3.4 provides –for three PGs- some data on the budget and expenditure of these PGs for FY 2009/10. Roughly 50% of the budget is allocated for PG core service departments (Office of the premier, assembly, Office of the Provincial Secretary, Finance and Planning), and for the actual expenditure the share of these departments is higher. These budget and expenditure lines include the ward grants (some kind of constituency development grants for the assembly members) which use is rather unclear, but which make up for between 10.5% (Choiseul) and 21.5% (Malaita) of the PG budgets. The higher level budget/expenditure line ‘assembly’ (including the aforementioned grants) is proportionally the single biggest budget line for all three PGs for which data were analysed, both in terms of budget as well actual expenditure.

For all three PGs, the three sectors that take the largest share of both budget and expenditure (after the core departments) are works, education and commerce. The three sectors is over 20% of the budget and the expenditure. For education, this concerns mainly the grants to the Community High Schools (CHS), while the budget for the sector ‘commerce’ includes *Business grants* that are granted –via assembly members- to those that want to start a business. The levels in the budget for all other sectors are less than a few percentage points at the highest. And for sectors that have low budgets, they appear to be first to fall by the wayside if incomes trail behind expectations.

Human Resources for service delivery by PGs

Provincial Governments have a core staff of seconded employees that are on the payroll of the MoPGIS, being the Provincial Secretary, the Deputy Provincial Secretary, the Provincial Treasurer and his/her deputy and the Chief Planning Officer and the Senior Planning Officer, as well as one legal officer, being a total of seven staff. All other staff –apart from the seconded sector staff- are direct employees, i.e. staff employed by the PG.

and possibly ‘political bargaining’. The Ministries of health and Education are using some kind of objective data (or even formula as for the student grant) to determine the size of the grant.

Regarding the group of direct employees, the following general remarks can be made:

- Apart from the direct employees funded under the health grant that have a contract of employment with the PG, in terms of numbers most directly employed staff is posted in the core departments, office of the Provincial secretary, finance (having most of those staff), personnel, planning as well as 'regional affairs' (the PG Administrative sub-offices).
- In many provinces, the PGs have only few senior staff and slightly more -but still limited numbers of auxiliary staff- for some sectors. Such sectors are often works, lands, youth/sports/women affairs. Malaita PG has -under the umbrella of a agricultural council- one senior officer working on a piggery project, while Isabel province has reportedly recruited one Agricultural extension worker staff for each ward.
- There are differences between provinces, but generally the PGs seem to have fairly limited numbers of directly recruited and self-paid senior staff in the sectors of health, education and agriculture. For the sectors they do employ staff the numbers are (extremely) limited.
- The health staff formally employed by the PGs (not on a fixed term contract but as permanent employees), but whose salaries are paid for under the health grant (which does not figure on the PG accounts), appear to constitute a substantial part of the total number of direct employees (66% in Malaita).

In most cases where the PGs have directly employed senior staff, they have either a separate division -in parallel to the office with the devolved staff (as is the case for works, lands and agriculture in Malaita)- or, constitute the only such sector office in the province in case there is no seconded staff (see Table 3.5).

In general, the PG staffed divisions are relatively small and have -as seen above- small budgets, while actual available resources are even smaller. On a province wide scale, the level of the services provided by PG-staff or PG staffed divisions appears insignificant. Service delivery as far as core services are concerned (education, health, agriculture), which reach a fair part of the populations in each province, are delivered by the divisions/departments staffed by seconded staff.

3.3 Concluding remarks on service delivery at the sub-national level

In Table 3.6 a summary is provided of the possible functions of Provincial Governments as per the PG Act (1997), -whereby a differentiation is made between types of decentralisation as well as mandatory and optional functions as described in the previous chapter- and the actual functions performed.

Table 3.5: Directly employed and seconded *professional* staff in provinces – by Sector/ Ministry

Ministry	Guadalcanal		Malaita		Remark
	Seconded	Direct	Seconded	Direct	
[Ministry of] Agriculture & Livestock Development	✓		✓	✓	Malaita direct : one person working on a piggery project
[Ministry of] Education & Human Resource Development	✓		✓		
[Ministry of] Health and Medical Services	✓	✓	✓	✓	Professional health staff paid under the sectoral grant but contracted by the PG ; not on PG budget
[Ministry of] Infrastructure Development	?	✓	✓	✓	Seconded staff for Mol are workshop personnel; no single civil engineer is seconded
[Ministry of] Forestry and Research			✓		
[Ministry of] Lands, Housing and Survey		✓	✓	✓	Malaita direct : one person
[Ministry of] Culture and Tourism			✓		
[Ministry of] Commerce, Industry and Employment	✓	?	✓		
[Ministry of] Communication and Aviation					
[Ministry of] Fisheries and Marine Resources	✓		✓		
[Ministry of] Mines and Energy				✓	Malaita direct : one person
[Ministry of] Women, Youth and Children's Affairs		✓			
[Ministry of] Rural Development					
[Ministry of] Environment, Conservation and Meteorology	?		✓		
[Ministry of] Finance and Treasury			✓		Inland Revenue offices
Administration, Finance, Legal (MoPGIS), personnel	✓	✓	✓	✓	Secretary, Finance and Planning staff seconded through MoPGIS;. Personnel officer directly employed
Planning	✓	✓	✓		G-Province : Senior Planning office directly hired
[Ministry of] Public Service					
[Ministry of] Home Affairs					
[Ministry of] Justice and Legal Affairs	?		?		
[The National] Judiciary	?		✓		
[Ministry of] Police and National Security	✓		✓		

Table 3.6 : PUBLIC SECTOR SERVICE DELIVERY – FUNCTIONS of PROVINCIAL GOVERNMENTS

Types of decentralisation	Mandatory / discretionary	Functions as described in the 1997 Act	Actual situation
Devolved functions (also called 'own' functions)	Mandatory for PGs	<ul style="list-style-type: none"> ▪ Legislative functions Mandatory as far as relevant, but powers for legislation in defined fields has been transferred to PGs – who are responsible to issue such legislation when needed 	<ul style="list-style-type: none"> ▪ Selectively applied <ul style="list-style-type: none"> ○ PGs undertake selected legislative functions of their choice, mainly related to income generation – few ordinances are passed for the greater public good. ○ There is no mechanism to ensure that PGs take care of stipulated mandatory functions.
		<ul style="list-style-type: none"> ▪ Service delivery functions <ul style="list-style-type: none"> ○ Specific functions as described (but wrongly placed) in Schedule 3, such as roads and bridges, rural water supply, markets, waste management, cemeteries, etc 	<ul style="list-style-type: none"> ▪ Relevant – but mostly not delivered <ul style="list-style-type: none"> ○ No evidence that PGs are actively engaged in these functions – maybe with the exception of markets ○ There is no mechanism to ensure that PGs take care of the stipulated mandatory functions.
		<ul style="list-style-type: none"> ○ Selected Service delivery functions as described in Schedule 5 as far as devolution orders have been issued 	<ul style="list-style-type: none"> ▪ Relevant – but not applied <ul style="list-style-type: none"> ○ No specific service delivery functions have been devolved through devolution orders
	Discretionary for PGs	<ul style="list-style-type: none"> ▪ All service delivery functions (functional areas) as described in Schedule 5 – subject to the provision of any enactment 	<ul style="list-style-type: none"> ▪ Selectively applied mostly leading to separate service delivery channels (CG and PGs) <ul style="list-style-type: none"> ○ Most PGs engage some staff and annually (at least plan) for some development investment in a limited number of sectors such as works, education (grants to CHS), mines & energy. Most PGs have no 'own' programmes in eg health or education. Some PGs have some parallel activities in e.g. agriculture.
Delegated functions (also called 'agency' functions)	Mandatory	<ul style="list-style-type: none"> ▪ Statutory (also called 'regulatory') functions - as prescribed by other Acts referred to in Schedule 4 The Act uses both 'shall exercise' and 'may be transferred' – and the actual situation may depend on each individual Act referred to. 	<ul style="list-style-type: none"> ▪ Selectively applied <ul style="list-style-type: none"> ○ PGs get involved in selected statutory (regulatory) functions ('like timber licensing') of their choice, mainly those related to some form of income. ○ There is no mechanism to ensure that PGs take care of mandatory statutory functions.
	Discretionary	<ul style="list-style-type: none"> ▪ Service delivery functions as agreed in an Agency agreement (Mandatory once agreed) 	<ul style="list-style-type: none"> ▪ Relevant or potentially relevant, but not applied <ul style="list-style-type: none"> ○ To our knowledge no single Agency Agreement has been signed
De-concentrated functions	n.a.	<ul style="list-style-type: none"> ▪ No role for PGs apart from coordination and any other task that may be delegated by either government as a whole or specific sectors ▪ Most service delivery functions are described as CG/LM and PG 'concurrent functions' 	<ul style="list-style-type: none"> ▪ Confusion in functional assignments & reporting lines <ul style="list-style-type: none"> ○ Some line ministries expect PGs to provide office facilities ○ Most line ministries take care of the bulk of the public service delivery, either in de-concentrated mode or in centralized mode.

A number of conclusions can be drawn :

- Firstly, and this has been mentioned, that the taxonomy of PG functions is rather complicated and not very systematic – and in way out of touch with definitions and concepts of decentralisation applied nowadays. Especially the distinction between legislative functions and the executive functions, whereby the link between the two is not clear, is a cause of confusion.
- Secondly, none of the identified devolved or delegated functions is played ‘wholesale’. Either the functions are not or hardly performed or they are selectively performed. There is no mechanism in place to ensure that PGs do what they are expected to do.
- According to the Act, the PGs have –amongst others- a responsibility for road maintenance. Because this service delivery obligation, a road maintenance grant was introduced in the early eighties, as one of the eight service grants. However, as the service grants are at present largely used as a discretionary block grant –and not for the specific purpose the name of the grant may have suggested³¹- PGs appear to be little involved in road maintenance, while the Line ministry considers it its responsibility – probably not so much on legal terms, but based on the actual fact that PGs are not effectively undertaking this function.
- Overall most of the PGs appear rather unaware of the mandated service delivery obligations as defined in schedule 3 – and they focus mainly on activities that are related –one way or the other- to own revenue generation.
- Finally, most of the nowadays confusion in roles and responsibilities of PGs stems from (i) the fact that actual service delivery takes place in a de-concentrated fashion (in which PG roles are by definition limited), while – because of the existing political leadership- one is made to think that the system is devolved; and (ii) that no clear and/or explicit agreements are made what the specific minor delegated tasks are for PGs as part of this de-concentrated model.

³¹ See the report on fiscal decentralisation by Juan Gomez of Georgia State University presented at the same workshop this paper was presented.

4. Discussion of the Main Issues

4.1 Need for Explicit Choice on the Preferred System of Decentralisation

Considering the spirit of the PG Act (1997), assuring political decentralisation, as well as the draft federal constitution, one would expect the country to be on a unequivocal route towards devolution, allowing sub-national levels of government a certain level of autonomy, whilst having granted them commensurate powers in terms of resources, both financial as well as manpower.

Analysing the present systems of service delivery, the situation is quite different and quite diverse. Some ministries are still fully centralised (infrastructure), while others are only marginally de-concentrated, mainly because they have staff in the provinces. Other sectors, such as health and education, do provide their provincial offices with certain amounts of money for which locally decisions can be made by the staff that is largely answerable to the parent Ministry – while local representative are not involved.

The way different ministries deal with budgets for the provinces is also quite different. Some, such as health, shows for each budget item the sums allocated for each province. Others (like education) show the total allocation for the provinces while others (agriculture and infrastructure) have no allocations made for the provinces, and budgets for the latter are tucked away in the departmental budgets.

Overall, there is no guidance on the preferred model of dealing with decentralised service delivery. Although one may assume the envisaged model is devolution, it is not explicitly stated, and –as a consequence- there is no guidance (nor from PMO, neither MoPGIS or MoF) for line ministries on how to organise their decentralised service delivery.

4.2 Scope for More Clarity on the Roles that MoPGIS Should Play

Related to this is the question what role the MoPGIS should play. Different persons, even within the ministry, seem to have different opinions on this that range from being a line ministry for Provincial Governments or a cross cutting ministry like the Ministry of Finance and the Ministry of Public Service.

The first view, fits with the idea sometime advanced that PGs are ‘Agents of the State’. In that same view Provincial Secretaries could be seen as the Central Government representatives in the province. In a way, this view fits with the idea of a de-concentrated model of service delivery.

The alternative view is that, in a (partly) devolved system, Provincial Governments are a second tier of government with own –specified- responsibilities and decision-making powers. In this view, the role of the Ministry of Provincial Governments would be to ensure that the sub-national level of governments operate as intended. The roles of the Ministry are then not so much the ‘parent ministry of PGs’, but a cross cutting ministry – like Finance and Public service-, that interacts with all line ministries and facilitates PGs to functions while setting policies and standards (see Fig 4.1 below).

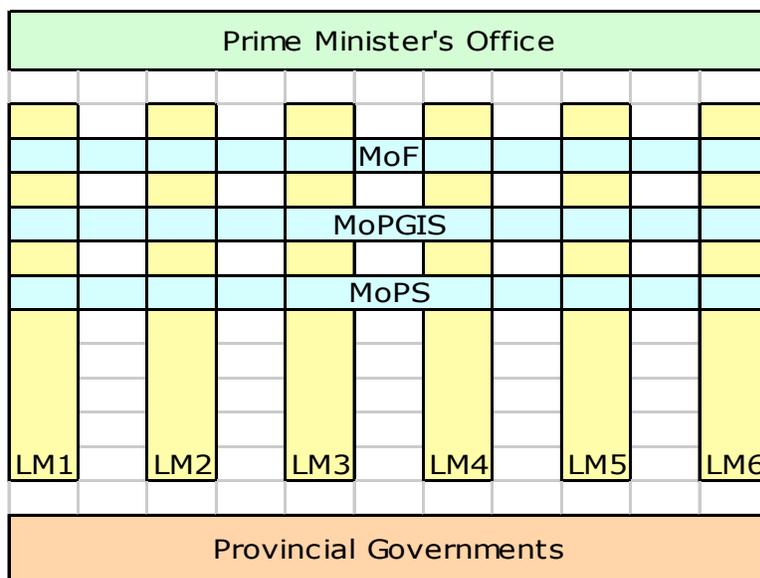


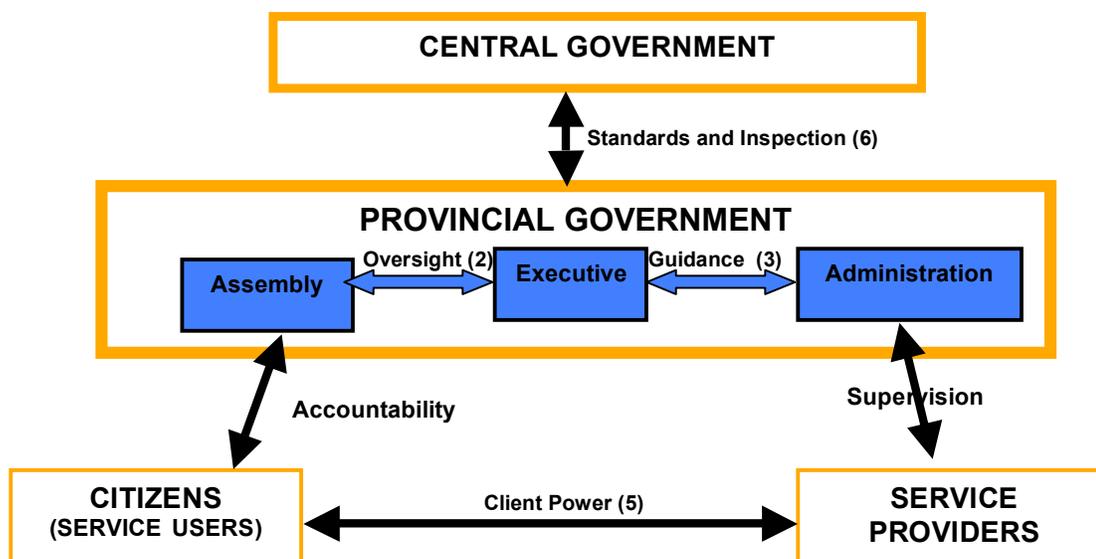
Figure 4.1: The government as a Matrix organisation

Such a role for MoPGIS includes that the Ministry facilitates the assignment of functions for various Ministries. It, however, also includes a role for the Ministry to oversee that PGs actually perform as they are supposed to perform. As we saw in the previous paragraph, such a mechanism is at present largely absent.

4.3 More Clarity on the Roles and Functions

It is often said that PGs do not have the staff neither the resources to perform the functions bestowed on them, hence their poor performance record. This point –as illustrated in the previous chapter- has some merit. On the other hand, we also saw that –as compared the health and education ‘grants’- the amount of the service grant allocated to PGs is not insignificant, while a clear focus on service delivery –or rather particular areas of service delivery is lacking – as a result of which it is very difficult to spell out PG outputs or achievements.

A complication, as alluded to in both Chapters 2 and 3, is that the accountability model underlying the Provincial Assembly structure –and as illustrated in Figure 4.2 below- appears poorly understood and not widely shared. For decentralisation to become a better (more efficient and more effective) alternative for service delivery by the national government, it is imperative that Provincial Governments become institutions that are accountable to the people, but also institutions that do take into account peoples' views and wishes.



At present, the role of the assembly (as an organ overseeing the work of the executive) appears limited, while on the other hand the links with the population (for both the assembly as well as the executive) are also limited. And because the PGs are not involved in mainstream service delivery, PGs can be perceived to run their own small show in the side – while in fact both the PG Act and the draft constitution were meant to give sub national governments a centre stage role.

The PGs can only regain that position by gradually starting to deliver on specific agreed and do-able functional assignments that need to be clearly spelt out. Only then can reasonable estimates be made for the required financial resources and the human manpower – using the principle that ‘funding follows functions’, which includes manpower to follow functions.

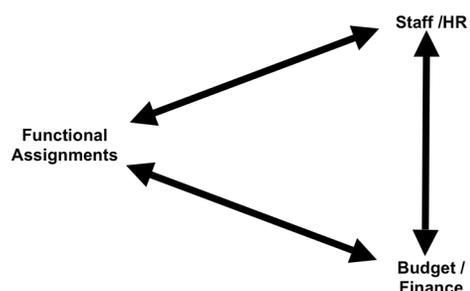


Figure 4.3: The link of Functional assignments with staffing and funding

4.4 Need to Reduce the Ambiguity in Reporting Lines

At the moment, there is a large ambiguity regarding reporting lines. As we have seen, most staff seconded to the provinces is officially, as per the letters of posting, answerable to the provincial secretary either directly (for the provincial heads) or indirectly (for all other staff through the respective provincial heads). In most cases these lines are weak at best, because the provincial secretaries have little influence on the decisions made for the sectors, and also because -apart from the funds under the grant for the education authority-, they have no accountability role for the sectoral funds.

At least for the near future dual accountability lines may be unavoidable, but there is scope to clarify how such a dual relationships work in practice, and for what subjects provincial heads of department would report to their respective ministries and for what they are supposed to make sure the Provincial secretary is in the loop. As much as there are many complaints about the confusing situation (and it is confusing – at least complicated!), sometimes it seems little is done (and here there may be a role for a cross cutting MoPGIS) to clarify role, responsibilities and reporting lines as much as possible in the given situation. It already would help quite a lot if all parties were talking the same language, as it would avoid people taking advantage of any loopholes.

4.5 Flow of funds to be Aligned with Functions & Reporting Lines

To make the third corner of the diagram in Fig 4.3, there is need to review accountability lines, along with functional assignments and the actual flow of funds. But also here, there is bound to be a sub-optimal situation for the immediate future, which may be acceptable as long as it is clear for all parties where the system is heading. For example, at the moment the Provincial Secretary is co-signing on expenditure for the education authority. Objectively, this may not make sense, as the PS/Education is the accounting officer. Yet, and even though at present this role is rather meaningless as Provincial Secretaries appear to sign as a matter of formality, it could be an important step towards a system where PGs are given more responsibility. However, what it requires to become meaningful is that co-signatories can no longer sign with a blind eye, as they are effectively held accountable, either by the Assembly or the Ministry. Neither is much happening at present.

4.6 Decentralisation requires simultaneous action at multiple fronts

Finally, it is important to recall the definition of decentralisation, which labels it a *complex* and *multi-faceted process*. Decentralisation is dealing with most of the

sectoral ministries, as well as with all sub national units of government. It is likely to deal with a substantial part of the service delivery budget and a substantial part of the civil service. If for devolution, it requires dealing with all the four pillars of decentralisation simultaneously. It requires a strong driver at the central level – which in many countries is either the Ministries of sub national government or the Ministry of Finance. If neither of these parties take up the role, normally line departments will take the lead – by lack of proper guidance often in a proliferated manner- as they realise that for efficient and effective service delivery some sort of decentralisation is required.

In Solomon Islands, both the Ministry of Education and the Ministry of Health are working on a more decentralised set-up of their operations, and this may be the appropriate moment for MoPGIS to seize the opportunity to bring such efforts together in a coordinated manner under the banner of decentralised service delivery through Provincial Governments.

5. Way forward / Recommendations

5.1 Main Conclusions

There are a couple of main conclusions to be drawn from the above.

Firstly, that the policy trend points to devolution, whereby a significant range of important services will, ultimately, become the full responsibility of -what now are- the provinces.

Under such a system, the provinces (or States) will be responsible for the delivery of these services in a holistic manner with a fair amount of discretion on how to deliver them, and as such, under the purview of central (or federal) government ministries (that will have tasks in policy setting and standard setting), be responsible for planning, financing (if needed assisted with a grant or grants), implementation and monitoring and reporting.

The second conclusion is that the present situation is a far cry away from the desired situation, as most critical services are delivered by line ministries in a de-concentrated or delegated fashion, or rather a complex mixture of the two; rather distinct from the provincial governments that, in principle, have a set-up for devolved service delivery, but only play a marginal role, because they lack the explicit mandate, the resources, the capacity and probably sometimes also the (political) will.

At the moment, PGs lack a sense of public purpose and are insufficiently meaningful. Even the roles of coordination across sectors or improving service delivery through popular participation (one of the theoretical arguments for decentralisation) are not or not appropriately played. For PGs to prove their right of existence it is imperative that, apart from the legislative functions, they get involved in meaningful delivery of core services that affect a majority of the population.

But given the gap between the policy intention and a realistic assessment of the present situation, the only sensible way to deal with it is to work incrementally towards the desired situation, by improving the system of Provincial Governments under the present legal dispensation, and do that in such a way that it would give the States a better starting point, if and when they will be created. An appropriately devolved system of service delivery as is possible under the present legal framework would come very close to a decentralised system as proposed under the draft constitution.

In the next paragraph we suggest a few of such incremental steps that are related to the pillars of decentralisation presented earlier in this paper. The crux of getting

decentralised systems right is – apart from being clear on the decentralised system chosen and the role given to the lower tiers- to align financial and human resources with the allocation of functions across tiers of government. Decentralisation processes therefore require playing chess on various boards at the same time. And no single party can do it alone.

5.2 Recommendations

➤ Regarding Roles and Responsibilities

- MoPGIS/PGSP to engage with interested Ministries (and Provinces) that are keen on clarifying roles, in a process-exercise of unbundling the various functions and determine what can/should be decentralised and what should stay at the national level. At present the issue of transfer of functions is too often dealt with on a 'stock, lock and barrel basis'.
- Assure cross-sectoral information sharing to seek for common approaches and synergies.
- Prepare, -based on the outcome of this process, in which the line departments should take an active, if not leading role-, a manual on roles and responsibilities of (i) assembly members, (ii) the executive, (iii) the PG overall administration and (iv) the technical/line departments as well of the roles of MoPGIS and the constituents.
- Within the present legal setting the aim would be to arrive at agency agreements (or devolution order) – whereby it is proposed to strive doing this in such a way that they are valid for all Provinces. The present set-up whereby each Ministry has to make agreements with each province seems too cumbersome and complicated to be effective.

The experience of PNG may be illustrative here. Firstly, because PNG opted to make changes in the functional assignments prior to making changes to the legal framework. The 'legal' work was only done after things had been agreed, worked out and even tested. Secondly, because, as attached in Annex 4, the way PNG made simple descriptions of functional assignments may be helpful for Solomon Islands. Function assignments, are not rocket science, but require common sense and consensus building amongst involved parties.

- Organise training / orientation / induction courses and events for the same. The general principles of the system of Provincial Governments and how they should work (including roles and functions of assembly, executive and the administration as well as the rights of the citizens; in brief democratic representation) are insufficiently known to make the system work.

➤ **Policy, Planning and Budgeting**

- Although there is a legal framework for provincial governments, a policy on decentralised service delivery is lacking. It is therefore suggested that MoPGIS -in collaboration with the Ministry of Home Affairs- prepares a short paper on the present positions regarding decentralised service delivery that can be discussed in a wider forum and subsequently serve as input in the other activities that are proposed here.
- MoF to work with line departments to make allocations for provinces visible in the national budget (as provincial 'entitlements' in the national budget) - as a precursor to provincial/state budgets.
- Given the recent past performance of PGs, it is understandable that line ministries prefer to keep control on the spending of the funds being made available for the sectors (eg through the grants), but there is scope to explore how (i) budget information is shared (ii) how popular participation in planning is realised and (iii) how PGs get gradually into the loop of taking shared responsibility (eg as co-signatures on the accounts as is done for the education authority grant).
- MoPGIS –together with the Ministry of Planning- prepare a planning and budgeting guideline (outline) for the totality of functions that are either delegated or devolved (or likely to be delegated or devolved).
- Line ministries to develop a link between the National Ministers and the Provincial Ministers regarding sector policies.

➤ **Human Resources**

- MoPGIS to prepare –together with the MoPS- a manual on procedures and accountability lines and reporting lines for all seconded staff working in provinces on functions that are either delegated or devolved or likely to be delegated or devolved.

➤ **Legal Harmonisation**

- MoPGIS to create an accessible registry and data base of all acts and ordinances related to provincial government
- MoPGIS to make –together with the Office of the Attorney General- a list of factual and other inconsistencies between the Acts and have proposals prepared on how to deal with these (legal harmonisation).

All the above recommendations are to be taken as with simultaneous chess – they can not be finished in one go, and other boards may need to be visited before a next move can be made. It is a process that needs to be facilitated and managed. A tournament organiser, if not stepping forward on it's own initiative, needs to be found.

ANNEXES

SCHEDULE 3
(Section 26 (3))

LEGISLATIVE MATTERS

Trade and Industry

1. (1) Local licensing of professions, trades and businesses, local marketing.
(2) The [Weights and Measures Act](#) is not included.

Act No 12 of 1973

Cultural and Environment Matters

2. Local crafts, Historical remains, Protection of wild creatures.
3. Coastal and lagoon shipping, Provision, maintenance and improvement of harbours, roads and bridges.

Finance

4. Raising revenue by-
 - (a) basic rates;
 - (b) property tax;
 - (c) fees for services performed or licences issued by or on behalf of the Provincial Executive (other than services performed or licences issued by them as agent of another); and
 - (d) such other means as may be approved for the purposes of this paragraph by the Minister by order.

Agriculture and Fishing

5. Animal husbandry, Management of agricultural land, Grants, loans and subsidies in respect of agricultural production, Protection, improvement and maintenance of fresh-water and reef fisheries.

Land and Land Use

6. Codification and amendment of existing customary law about land. Registration of customary rights in respect of land including customary fishing rights. Physical planning except within a local planning area (within the meaning Act No. 22 of the [Town and Country Planning Act](#) or an area to which Part IV of that Act 1979) has been applied.

Act No. 22 of 1979

Local Matters

7. Fire services and fire protection, Waste disposal and cleansing services, Resthouses, eating houses and similar places, Public conveniences, Vagrancy, Public nuisances, Cemeteries, Parks and recreation grounds, Markets, Keeping of domestic animals, Building Standards.

ANNEX 1: PGA (1997) Schedules 3,4 and 5

Local Government

8. (1) The constitution, area and general powers and duties of Area Councils and similar bodies, their revenue and expenditure.
- (2) The making of by-laws by such bodies, that is, laws-
- (a) affecting only the area of responsibility of the body;
 - (b) not having effect until confirmed by the Provincial Executive; and
 - (c) not made for a purpose for which provision is made by, or is or may be made under, any other enactment.
- (3) To determine by resolution of the Provincial Assembly the salaries and allowances to be paid in respect of area councillors.

Housing

9. Housing, Regulation of rents.

Rivers and Water

10. Control and use of river waters, Pollution of water, Provision of water supplies (other than urban water supply in areas, prescribed by under the Solomon Islands Water Authority Act).

Act No. 16 of 1992

Liquor

11. Liquor licensing.

Corporate or Statutory Bodies

12. Establishment of corporate or statutory bodies for provincial services including economic activity.

NOTE References in this Schedule to any enactment include a reference to any order, rules or regulations made under it.

SCHEDULE 4
Section 26(4)

STATUTORY FUNCTIONS

PART 1
FUNCTIONS THAT MAY BE TRANSFERRED

Cultural and Environmental Matters

The Cinematograph Act (Cap. 30)	The functions given to the Licensing Authority under that Act.
	The functions given to the Minister under section 14 (making rules) except paragraph (f) (Board of Censors).
The Wild Birds Protection Act (Cap 89)	The functions given to the Minister and 14 (Sanctuaries).

Transport

Roads Act (Cap. 17)	The functions given to the Minister under sections 3, 5, 27 and 29(b) to (f) and (so far as relating to those paragraphs) (g) of that Act.
The Traffic Act (Cap. 19)	The functions given to the highway authority under sections 68 and 69 of that Act (closure of roads and injury to bridges).
The Light Dues and Harbours Act. (Cap. 100)	The functions given to the Chief Marine Officer under section 5 of that Act (obstructions in harbours).

Agricultural and Fishing

The Commodities Export Marketing Authority Act (Act No. 5 of 1984)	<p>The functions and powers conferred on the Authority under sections 11, 12, and 13 (relating to issue, renewal, revocation, and variation of the conditions of a licence to carry on any prescribed activity in a commodity other than export, including power to receive applications for issue, renewal, revocation and variation of the conditions of such licence, or to make any variation in those conditions, or to register such licence, or to permit temporary carrying on prescribed activity covered by a licence:</p> <p>Provided that no function or power conferred under those sections shall be exercised except after consultation with the Authority. The function conferred on the Minister under section 32, to exempt a person or a class of persons from the provisions of section 11(1)(b); provided</p>
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ANNEX 1: PGA (1997) Schedules 3,4 and 5

The Trespass and Branding Act. (Cap. 88)	that no such function can be performed except after consultation with the Authority The functions given to the Minister or the Under Secretary/Agriculture under that Act
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Land and Land Use

The Land and Titles Act (Cap. 93)	The functions given to the Minister under Division 2 of Part V of that Act (compulsory acquisition of land) in relation to land required for the purposes of devolved functions.
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Rivers and Water

The River Waters Act (Cap. 96)	The functions given to the Minister under that Act.
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Forestry

The Forest Resources and Timber Utilisation Act (Cap 90)	The functions given to the Minister under Part IIA of the Act (approved timber agreement affecting customary land). The functions given to the Minister and Part III (licensing of mills). The functions given to the Minister under section 33 (regulations) so far as relating to Parts IIA, III and VI
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Public Holidays

The Public Holidays Act (Cap. 35)	The functions given to the Governor-General under section 6 of that Act (appointment, for special public holidays).
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Liquor

The Liquor Act (Cap. 33)	The functions given to the Minister under section 16 of that Act (appointment of Liquor Licensing Board). The functions given to the Minister under s 84 (closure of bars). The functions given to the Minister under 96 (power to alter fees and forms).
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**PART II
CONCURRENT FUNCTIONS**

The functions included in Part I in respect of the following Acts-

The [Roads Act](#)

The [Traffic Act](#)

The [Public Holidays Act](#)

**SCHEDULE 5
(Section 33(3))**

PROVINCIAL SERVICES

Trade and Industry

Employment.
Co-operatives.
Local trades and industries.

Cultural and Environmental Matters

Museums, libraries, local languages, arts and crafts, sports and other cultural and recreative activities.
Historical remains.
Conservation of the environment.

Transport

Shipping and harbours.
Road transport.
Aerodromes.

Agriculture and Fishing

Agriculture.
Fishing.

Health

Medical services. Public Health.

ANNEX 1: PGA (1997) Schedules 3,4 and 5

Local Matters

Matters included in paragraph 7 of Schedule 3.
Welfare and other social services.

Housing

Housing

Information

Newspapers and other information services.
Statistics.

Forestry

Forestry.

Education

Kindergartens, primary schools, provincial secondary schools and community education.

Electricity

Supply of electricity outside supply areas (within the meaning of the [Electricity Act](#)).

Tourism

Tourism

Corporate or Statutory Bodies

Matters included in paragraph 12 of Schedule 3.

(Section 45)

FUNCTIONS OF COUNCILS

1. Planning, control and promotion of development:
 - (a) to make, finance and implement plans for the provision of social, administrative and economic services;
 - (b) to organise and promote the devolution of responsibility for services and development to committees and community organisations.
2. Custom, tradition and social change:
 - (a) to define and regulate such customs as are not contrary to law and which the Council considers should be so recognised;
 - (b) to devise and implement ways of according respect and positions of influence to traditional leaders;
 - (c) to plan and implement schemes for the preservation and development of traditional skills and knowledge, and to foster these among young person and others.
3. Employment:
 - (a) to provide employment guidance and placement services;
 - (b) to provide advisory and conciliation services to employers and employees.
4. Land:
 - (a) to manage, develop and deal in land held by the Council;
 - (b) to manage such areas of land owned by the Government as the Government may direct, on behalf of the Government and subject to such conditions as the Government may impose;
 - (c) to make, revise and implement plans to promote and control the design, construction, alteration and removal of buildings;
 - (d) to provide for the demolition of dangerous buildings and for the recovery of any expenses incurred in connection therewith.
5. Agriculture:
 - (a) to provide extension services for the promotion of agriculture and livestock husbandry for cash and subsistence;
 - (b) to promote the control of plant and animal diseases;
 - (c) to promote land conservation.
6. Fisheries:
 - (a) to provide extension services for the improvement of fish production and marketing;
 - (b) to protect and conserve local fisheries.
7. Forestry:
 - (a) to provide extension services to promote local timber production;
 - (b) to conserve forest for protection of the environment, water catchment, firewood and building materials;
 - (c) to undertake timber production and processing alone or in association with others.

8. Manufacturing:

- (a) to promote development of manufacturing particularly by Islanders processing local materials.

9. Tourism:

- (a) to provide facilities and services for tourists;
- (b) to promote the orderly and controlled development of tourism.

10. Trade and marketing:

- (a) to provide storage and transport services;
- (b) to license trades, businesses and other occupations;
- (c) to provide and regulate market facilities;
- (d) to generally plan and promote the development of trade and marketing alone and in collaboration with other Councils and the Government.

11. Roads and road transport:

- (a) to plan, construct, maintain and control roads, bridges and associated facilities and works;
- (b) to license and control motor and other vehicles, traffic and services;
- (c) to promote and operate freight and passenger services;
- (d) to promote road safety;

12. Ports and wharves:

- (a) to plan, construct, operate and maintain wharves, port and harbour facilities.

13. Shipping:

- (a) to operate shipping and ferry services;
- (b) to license the operation of coastal and lagoon services;
- (c) to provide and maintain navigational aids.

14. Air Transport:

- (a) to construct and maintain licensed aerodromes;
- (b) to provide services and act as agents at licensed aerodromes.

15. Posts and telecommunications:

- (a) to operate postal, wireless and telegraphic agencies.

16. Water supplies:

- (a) to encourage and assist the provision of clean water supplies in rural areas;
- (b) to plan, construct and maintain water supplies in urban areas;
- (c) to establish, maintain and control public wells, springs, drinking fountains and bathing places and pools.

17. Electricity supplies:

- (a) to plan, construct and maintain electricity supplies in rural areas.

18. Waste disposal and cleansing:

- (a) to operate waste disposal and cleansing services in urban areas;
- (b) to plan, construct and maintain waste disposal facilities;
- (c) to promote suitable waste disposal and cleansing arrangements for rural areas.

19. Construction and engineering:

- (a) to plan, construct and maintain such buildings and other works as may be required for the discharge of the functions of the Council;
- (b) to execute works for the Government as an agent;
- (c) to contract for the execution of works;
- (d) to employ such staff, operate such equipment, and purchase and stock such materials as may be necessary for the proper and economic execution of these functions.

20. Housing:

- (a) to plan, construct and maintain houses for Council staff;
- (b) to encourage and promote the construction of houses and home ownership;
- (c) to promote the production and supply of materials and technical assistance for the building of houses;
- (d) to act as agent for the British Solomon Islands Housing Authority.

21. Education:

- (a) to provide education services, boards, committees, schools and institutions in accordance with the [Education Act](#), and also scholarships and bursaries.

22. Health:

- (a) to safeguard and promote public health, including the prevention of and the dealing with any outbreak or the prevalence of any disease;
- (b) to provide health and medical services;
- (c) to operate clinics, aid posts, dressing stations and health centres;
- (d) to operate hospitals and referral centres;
- (e) to establish, maintain and control cemeteries or burial grounds.

23. Cultural affairs:

- (a) to promote cultural activities;
- (b) to provide reference and lending libraries;
- (c) to provide museums and public monuments, and identify and preserve antique artifacts and sites of historical and cultural interest;
- (d) to promote the orderly pursuit of sociological and other research.

24. Social development:

- (a) to promote and assist the development of women's clubs and the fuller involvement of women in social development;
- (b) to provide welfare, probation and prison after-care services;
- (c) to promote and co-ordinate the development of sports and other voluntary organisations;
- (d) to provide and maintain community centres, sports and recreational facilities;
- (e) to provide relief and assistance to children, young persons, the aged, destitute and infirm.

25. Information:

- (a) to provide information services.

26. Administration and legal:

- (a) to provide management, accounting and executive services for the proper, orderly, economic and accountable discharge of the functions of the Council;
- (b) to promote the fuller understanding and participation of the public in the operation of local and central government;
- (c) to provide services for the registration of births, marriages and and deaths.

27. Miscellaneous:

- (a) to promote conservation of the environment including flora and fauna;
- (b) to perform any function delegated to it in pursuance of any Act;
- (c) to provide, after consultation with the members of a community or their direct representatives, for the performance by the members of such community, without payment, of minor communal services of a kind which are in the direct interest of such community as being intended directly to improve the social conditions of such community;
- (d) to prohibit cruelty to animals and any specified acts of cruelty to animals;
- (e) to prohibit, restrict or regulate the hunting, capture, killing or sale of animals, reptiles, birds or fish or any specified kind of animal, reptile, bird or fish;
- (f) to build, equip, maintain and operate communal feeding centres, restaurants and rest houses;
- (g) to prohibit, regulate or restrict the carrying or possession of weapons;
- (h) to prevent, abate and control fires;
- (i) to prohibit, control and restrict the storage of inflammable or offensive materials in any specified area;
- (j) to prevent and remove public nuisances;
- (k) to control the movement of beggars and vagrants in public places;
- (l) to regulate and control public collections in public places;
- (m) to provide or arrange for lighting in streets and other public places;
- (n) to allocate names to roads, streets and other public places, erect signs and directions, and allocate numbers to houses and other premises;
- (o) to establish, erect and maintain public lavatories, closets and urinals in any public place.

ANNEX 3 : Draft Federal Constitution – Schedule 5

The Table below present Lists I, II and III as provided under the draft Federal Constitution (version June 2009). In the draft constitution the lists are presented in three different lists, presented below as Column 1 (List I; federal functions), column 2 (list III concurrent functions) and Column 3 (list II, State function) respectively. Sometimes the order of topics has been change to make sectoral comparison more easy.

List I	LIST III	LIST II
2. Defense (a) Defense co-operation with foreign States (b) Civil Defense (<i>concurrent</i>) (c) Maintenance of national security		
3. Internal Security (a) Control of fire-arms and offensive weapons (b) Public order (c) Police Force subject to Chapter 21 (d) Intelligence services (e) Prisons Service subject to Chapter 21 (f) Immigration (g) Emigration		
4. External Affairs (a) Treaties, agreements and conventions and their implementation (b) Diplomatic, consular representation (c) Participation in and membership of International Organisations (d) Customs and the raising of custom revenue; (e) Quarantine; (f) Extra-territorial jurisdiction; (g) International fishing and enforcement obligations (h) Illicit drugs and narcotics (i) Human trafficking and human organ trades		
5. Citizenship (a) Citizenship (b) Naturalisation (c) Deportation of foreign citizens		
1. Justice (a) Civil and criminal procedure and law subject to Chapter 12 of the Constitution (b) The legal profession and the practice of the law	2. Justice (a) The administration of justice (b) Establishment of tribunals and quasi-judicial bodies	7. Justice (a) The administration of justice (b) Establishment of tribunals and quasi judicial bodies

ANNEX 3 : Draft Federal Constitution – Schedule 5

List I	LIST III	LIST II
		1. Custom (a) Application of customary laws, practices and traditions. (b) Codification of customary laws (c) Dispute resolution (d) Clan, tribal or village community governance and justice;.
	6. Land and water (a) Land tenure and dealings (b) Land registration (c) Land planning, use and development (d) Water and protection of water	6. Land and Water (a) Land tenure and dealings (b) Land registration (c) Land planning, use and development (d) Water and protection of water
	12. Land Planning and Management (a) Land use planning and development (b) Regulation of building and construction (c) Preservation and protection of historical sites and cultural heritage	7. Land Planning and Management (a) Land use planning and development (b) Regulation of building and construction (c) Preservation and protection of historical sites and cultural heritage
		2. Town government (a) Establishment of town areas (b) Town government, administration and management (c) Imposition of rates and taxes (d) Enforcement of town laws
6. Public Finance (a) Currency and foreign exchange (b) Regulation of banks, insurance and financial institutions (c) Public borrowings (d) Public debt management (e) Financial management by Federal governments and its agencies (f) Taxes and rates in federal territories; (g) Taxation on income and profits from individuals, companies and businesses. (h) Taxation on sales and goods and services; (i) Fees payable under federal law (j) Securities (k) Shares and Stocks		

ANNEX 3 : Draft Federal Constitution – Schedule 5

List I	LIST III	LIST II
7. Education (a) Tertiary education (education curriculum at this level) (b) Teacher training and certification	4. Education (a) Curriculum (b) Vocational and technical training (c) Scholarships	5. Education (a) Early childhood and primary education (b) Secondary education (c) Vocational education (d) Tertiary education (e) Curriculum (f) Vocational training (g) Scholarships
8. Health (a) registration of medical practitioners (b) Health professional training and certification (c) poisons and drug control (d) pharmaceuticals (e) international health matters and clearance requirements with WHO	5. Health (a) Public health (b) Medical and hospital services (c) Malaria and disease control	8. Health (a) Public health (b) Medical and hospital services (c) Malaria and disease control
9. Federal Institutions and Services (a) Federal institutions and services (b) Constitutional institutions (c) Federal Government enterprises, agencies and authorities (d) Official Secrets (e) Use of coats of arms, armorial bearings, flags, uniforms, orders and decorations (other than those of a State)		4. State Government matters (a) State government and State judicial institutions and services (b) State financial management and investment (c) State business and commercial enterprises (d) Civil list and State pensions
	1. Governance (a) Public service (b) Public holidays (c) Civil emergency (d) Archives and government records (e) Libraries and museums (f) Commissions of inquiry	6. Governance (a) Public service (b) Public holidays (c) Civil emergency (d) Archives and government records (e) Libraries and museums (f) Commission of enquiries
10. Trade, Commerce and Industry (a) Quality and standards (b) Import and exports (c) Regulation of local companies and foreign companies (d) Anti-monopolistic practices and trade practices (e) Intellectual property (f) Weights and measures (g) Hazardous substances	9. Trade, Commerce and Industry (a) Price control (b) Consumer protection and fair trading (c) Regulation of imports (d) Insurance (e) Alcohol and tobacco (f) Regulation of trade practices (g) State Tourism	12. Trade, Commerce and Industry (a) Price control (b) Consumer protection and fair trade (c) Regulation of imports (d) Insurance (e) Alcohol and tobacco

ANNEX 3 : Draft Federal Constitution – Schedule 5

List I	LIST III	LIST II
	7. Minerals and Petroleum (a) Prospecting and mining minerals (b) Exploration for and extraction of oil and gas	11. Minerals and Petroleum (a) Prospecting and mining (b) Exploration for and extraction of oil and gas
		3. Businesses and trade (a) Hotels and rest houses (b) Markets and trade stores (c) Public entertainment including eating establishments (d) Gambling
11. Shipping and navigation (a) All shipping, maritime matters and navigation (b) Maritime zones and territorial waters (c) Wrecks and salvage		
12. Aviation and Transport (a) Civil aviation (b) Regulation of inter-state transport (c) Carriage of passengers and cargoes (d) Vehicle standards	3. Provision of services (a) Water supply, sanitation and sewage disposal (b) Electricity and power generation (c) Postal and telecommunications (d) Ports and harbours (e) Airports (f) Broadcasting (g) Fire services and fire prevention (h) Public works	
	8. Agriculture, Fisheries and Forestry (a) Forests and forest resources (b) Agriculture, apiaries and livestock (c) Animal welfare (d) Fisheries, subject to Chapter 12, Part II of this Constitution	8. Agriculture, Fisheries and Forestry (a) Forests and forest resources (b) Agriculture, apiaries and livestock (c) Animal welfare (d) Fisheries, subject to Chapter 2, Part II of this Constitution
	11. Environment and Conservation (a) Environment protection and regulation (b) Conservation of natural resources and regulation of invasive species (c) Wild life protection and preservation of biological diversity (d) Genetic resources and genetically modified resources	7. Environment and Conservation (a) Environment protection and regulation (b) Conservation of natural resources and regulation of invasive species (c) Wild life protection and preservation of biological diversity (d) Genetic resources and genetically modified

ANNEX 3 : Draft Federal Constitution – Schedule 5

List I	LIST III	LIST II
	10. Social Security and Trade Organisations (a) Employment, welfare of labour and trade unions (b) Compensation and superannuation schemes (c) Employment benefits and pensions	13. Social Security and Trade Organisations (a) Employment, welfare of labor and trade unions (b) Compensation and superannuation (c) Employment benefits and pensions
		16. Information Technology (a) Internet services (b) Television, broadcasting (c) Communication services

ANNEX 4 : Example of a description of Functional Assignments PNG - health sector

Area	National responsibility	Provincial responsibility	LLG responsibility	Issues
Health policy and planning	<ul style="list-style-type: none"> ➤ Development of national health policy, plans and standards ➤ National Health Board ➤ Approval of provincial plans 	<ul style="list-style-type: none"> ➤ Development of provincial implementation plans ➤ Provincial Health Boards and district health management committees 	-	Accept
Monitoring	<ul style="list-style-type: none"> ➤ Defining health indicators and distributing reporting formats to provinces 	<ul style="list-style-type: none"> ➤ Monitoring and reporting re: provincial health indicators ➤ Maintaining records at all health facilities 		Accept
Health facility operations and outreach	<ul style="list-style-type: none"> ➤ All provincial, referral and public hospitals ➤ Supervision of staff training at rural health facilities ➤ Construction standards for all health facilities ➤ Initial provision, replacement and repair of radios ➤ Patient referrals between hospitals 	<ul style="list-style-type: none"> ➤ All district hospitals, health centres, health sub-centres, aid posts and urban day clinics ➤ District staff operate rural health facilities and train/supervise aid post staff ➤ Travel and transport costs associated with medical patrols of rural health facilities ➤ Maintaining rural hospitals and health centres and districts maintain health centres, aid posts and health centre staff housing ➤ License fees, identifying radios that aren't working and transport to POM for repairs ➤ Patient transfers to hospitals 	<ul style="list-style-type: none"> ➤ Additional funding of urban clinics and rural aid posts ➤ Preventative maintenance of aid posts and health worker housing 	Accept Need to be mindful that LLGs may lack capacity to undertake maintenance of rural health facilities and community health workers housing. Repatriation from aid post to health centre is patient's responsibility
Family health services	<ul style="list-style-type: none"> ➤ Policy, protocols and programs for immunisation, cold chain maintenance, nutrition, village birth attendants, child health and family planning ➤ Purchase and distribution of vaccines and cold chain equipment to provincial headquarters ➤ Replacement of cold chain equipment 	<ul style="list-style-type: none"> ➤ Patrols to aid posts, clinic points, schools, family planning clinics ➤ Distribution and maintenance of cold chain equipment ➤ Distribution of vaccines to aid posts and clinic points ➤ Village birth attendant kits and training of village birth attendants ➤ Supervise district staff 	<ul style="list-style-type: none"> ➤ Assist village birth attendants attend training ➤ Provide facilities for village patrols and clinics 	Accept
Disease control	<ul style="list-style-type: none"> ➤ Policy and standards for disease control programs, lab operations and testing ➤ Central public health laboratory and labs at provincial and public hospitals ➤ Quality assurance of health facility labs ➤ Malaria control programs 	<ul style="list-style-type: none"> ➤ All labs at district health centres ➤ Travel costs of hospital technicians to monitor provincial facilities ➤ Clinical care, follow-up care, intervention and testing programs ➤ Investigate disease outbreaks, report and monitor in accordance with public health manual and coordinate emergency programs ➤ Procure and distribute bed nets and all other malaria control intervention programs 		Accept This also needs confirmation in relation to voluntary counselling and testing and lab facilities concerning HIV/AIDS.

**ANNEX 4 : Example of a description of Functional Assignments
PNG - health sector**

Area	National responsibility	Provincial responsibility	LLG responsibility	
Disease outbreaks	<ul style="list-style-type: none"> ➤ Standard setting concerning disease outbreaks ➤ Where there is an emergency or a disease outbreak, meet non-routine and hospital costs 	<ul style="list-style-type: none"> ➤ Where there is an emergency or a disease outbreak, meet the cost of provincial staff travelling to the outbreak area and transporting extra vaccines/medicines. 		
Medical supplies and equipment	<ul style="list-style-type: none"> ➤ Purchase and distribution of medical supplies and equipment to provincial headquarters ➤ Policy, protocol and standards concerning use of pharmaceuticals and medical equipment ➤ Major maintenance and repairs 	<ul style="list-style-type: none"> ➤ Distribution of medical supplies and equipment to health facilities and districts responsible for distribution to aid posts ➤ Preventative maintenance ➤ Transport and repatriation costs for repair of equipment 	-	
Environmental health, water supply and sanitation	<ul style="list-style-type: none"> ➤ Policy and standards for water supply, sanitation and waste management 	<ul style="list-style-type: none"> ➤ Environmental health inspection including water, sanitation and food safety standards ➤ Support construction of water supplies 	<ul style="list-style-type: none"> ➤ Assist construction of water supplies 	<ul style="list-style-type: none"> ➤
Health promotion	<ul style="list-style-type: none"> ➤ Policy and materials on health promotion and education ➤ Research and development of training programs 	<ul style="list-style-type: none"> ➤ Assist NDoH conduct field research ➤ Deliver health promotion campaigns, with district health staff responsible for delivery of these campaigns to rural areas and villages ➤ Distribute information to district health facilities with district health staff responsible for delivery of these materials to rural areas and villages 		
Training	<ul style="list-style-type: none"> ➤ Long course in-service training such as at medical faculty or colleges of allied health science ➤ Where training is proposed by a national organisation ➤ Training material development for village birth attendants 	<ul style="list-style-type: none"> ➤ Short training courses provided in the province ➤ Pre-service training for village birth attendants 	<ul style="list-style-type: none"> ➤ Assist village birth attendants attend training 	<ul style="list-style-type: none"> ➤

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List of abbreviations

CEO	Chief Education Officer
CFO	Chief Field Officer
CG	Central Government
CHS	Community High Schools
EAs	Education Authorities
GoTL	Government of Timor-Leste
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit GmbH
HQ	Head Quarters
LGA	Local Government Act
LM	Local Ministry
MEHRD	Ministry of Education
MoE	Ministry of Education
MoF	Ministry of Finance
MoPGIS	Ministry of Provincial Government and Institutional Strengthening
MoPS	Ministry of Public Service
PG	Provincial Government
PGA	Provincial Government Act
PGIS	Provincial Government and Institutional Strengthening
PGs	Provincial Governments
PGSP	Provincial Governance Strengthening Program
PMO	Prime Minister's Office
RAMSI	Regional Assistance Mission to Solomon Islands
SBD	Solomon Island dollars (November 2009 : USD 1 = SBD 8.3)
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme