Constitutional crises in Fiji and Solomon Islands and donor concerns about ‘good governance’ raise older questions about the appropriateness of introduced constitutions to local conditions. The paper analyses the process of transfer of ‘Westminster’ constitutions in island states of the Pacific. It considers the role of consultants, and the factors that facilitated or constrained transfer into and within the region. It also identifies cases where alternatives to Westminster were considered but rejected by local leaders. The paper concludes that Westminster has been spread by replication, almost irrespective of underlying social and political conditions.

The ‘Westminster model’ was often said to be inappropriate for the countries upon which it was foisted at Independence. When decolonisation came to the South Pacific in the 1960s and 1970s, there were efforts to adapt ‘Westminster’ to local circumstances. Nevertheless, introduced institutions, and their incompatibility with indigenous ones, are still often blamed for political and economic problems in the region. Fiji’s first coup in 1987 led to reflections that democracy might be a ‘foreign flower’ unable to survive in foreign soil. Similar reflections followed George Speight’s attempted coup in Fiji in May 2000. Concern about the appropriateness of introduced institutions has become pervasive during the 1990s, as aid donors, the World Bank and the Asian Development Bank have become convinced that ‘institutions matter’, and have been promoting a single vision of ‘good governance’ across different countries in the region.

The paper considers the issue as one of ‘transfer’ which may involve borrowing as well as coercion. The process of transfer of Australian institutions to Papua New Guinea (PNG), for example, has been characterised as a kind of transplanting. It may lead to rejection, or failure of a transplant to take. The paper is organised around a series of questions devised by Dolowitz and Marsh to analyse the transfer of policies. They ask when does transfer take place, for example as a result of a crisis, or change of government; why does it take place, particularly was it forced or voluntary; who was involved, including ‘policy entrepreneurs’; and what was transferred? They go on to ask about the degree of transfer and the factors that constrained or facilitated it.

These questions are broad enough to include other ways in which the transfer of Westminster constitutions can be analysed: as a matter of the ‘diffusion of innovations’ or of the ‘reception of laws’, or the ‘social conditions for democracy’.

The contribution of AusAID to this series is acknowledged with appreciation.

WESTMINSTER IN THE PACIFIC: A ‘POLICY TRANSFER’ APPROACH

PETER LARMOUR
WHAT COUNTS AS ‘WESTMINSTER’?

In British, Australian and New Zealand colonies in the Pacific, independence was achieved by transferring executive power from a Governor or High Commissioner to a local executive, responsible to a local legislature. These historical events draw attention to one of the defining characteristics of ‘Westminster’, the selection of ministers from the legislature, and the idea that they were responsible to it. To the extent that Westminster in Britain embodied a transfer of power from a monarch to an elected assembly, it also captured late colonial politics, in which local politicians sought to make a colonial governor accountable to themselves.

However, the mechanism of ‘transfer of power’ can overshadow other features of ‘Westminster’ and their continuing presence or absence, and appropriateness in the South Pacific region. Political parties, for example, are often weak or absent. The rule of law is often challenged by the claims of custom, or personal and clan ties. The separation of powers is often difficult in small states. Property rights are often unprotected against the claims of traditional owners. Some human rights, particularly right to freedom of movement, do not have much popular support.

The selection of ministers from the legislature generally serves to distinguish the former British, Australian and New Zealand colonies from the US and French colonies (many of which remain in closer constitutional relationships with their colonisers). However there are also interesting crossover cases: Marshall Islands, a former US territory, adopted a ‘Westminster’ type constitution, while its southerly neighbour, Kiribati, a former British colony adopted a presidential variant. Several PNG provinces adopted directly elected presidents, until they were replaced by government nominees in the 1990s.

Westminster itself is a moving target, for example as the UK becomes more ‘federal’, and subject to European law. It is the Westminster transplants, in Australia and New Zealand that were more probably more influential in the region. It is an idealised and often archaic version of ‘Westminster’ that is used to judge the actual practice of politics in Suva and Honiara as much as London.

WHEN?

The first written constitution in the region, Tonga’s of 1875, was modelled on Hawaii’s constitution, which in turn drew on nineteenth century American and European best practice, and the king and a hereditary nobility still exercise effective political power. To the extent it was a transfer, it was a transfer of an early Westminster: of the Magna Carta, setting out the relationship between barons and the king; of national unification; and of adult male suffrage.

The heyday of Westminster constitution making was the period of decolonisation by New Zealand, Australia and Britain in the 1960s and 1970s. It was influenced by the precedents set by Western Samoa, which became independent in 1962 on the basis of a constitution that broke with international democratic conventions by continuing to allow the restriction of the right to vote and stand for parliament to *matai*, or chiefly heads of households.

Constitutional changes did not stop at Independence. Samoa adopted universal suffrage in 1991 but still insisted that candidates for election must be chiefs. Cook Islands’ review followed a structural adjustment program, negotiated with aid donors and the Asian Development Bank after a financial crisis in 1995. There were also unconstitutional changes. Following military coups in 1987 Fiji first adopted a new constitution entrenching the executive dominance of ethnic Fijians. Steady international pressure, domestic disquiet and emigration of non-ethnic Fijians led to the adoption a new constitution in 1997 which was in turn overthrown by a civilian coup in 2000. Solomon Islands constitution has been sidelined since police joined Malaitan rebels to force a change of government in 2000.

HOW?

Dolowitz and Marsh distinguish between voluntary transfers, in which governments perceive a domestic problem and go looking abroad for answers, from coercive transfers, typified by the constitutions the US imposed on Germany and Japan after the second world war, or the conditions set by the IMF or the World Bank. They point out that these are ends of a continuum, and there is a middle ground, for example when countries adopt reforms for fear of being left behind by others, or to adjust to external events outside their control.
The rules and regulations imposed by international organisations on their own members are neither completely voluntary, nor completely coercive. They are accepted as the price of membership, which confers other advantages.

The establishment and survival of an indigenous state in Tonga shows a mix of coercion choice and lack of alternatives. Some of that coercion was by Tongans against other Tongans, in the wars that led to one chief claiming control over the whole territory of what became Tonga. The form of a nineteenth century European monarchy was adopted partly because of a belief in its virtues, but partly also to forestall colonial rule.6

The colonial process of transfer was not a simple one of imposition. Writing about British policy for decolonisation Lee found ‘little genuine enthusiasm for exporting ‘the Westminster model’ to countries which lacked the presence of British settlers’. British colonies tended to be governed by a flexible version of royal prerogative. ‘Westminster’ took place far away. The system of government that was imposed by colonial rule was that of the District Commissioner, and (later) the functional department. Legislatures were established, with narrow franchises, but a defining feature of ‘Westminster’ – an executive chosen from the legislature - was an imposition of decolonisation rather than colonisation. Some of the pressure for it came from the international community into which the former colony emerged.

The typical process of constitution making in the South Pacific was to appoint a committee, which would tour the country canvassing popular opinion, consult experts, and travel abroad to draw lessons from the experience of other countries. It would report to the legislature, which might accept or reject its recommendations. The government might adopt its own position. There might be a referendum, or some kind of constituent assembly, before the constitution was enacted. Kiribati, for example, brought delegates in from outer islands to a constitutional convention.

Decolonisation in the South Pacific was a matter of colonial ‘push’ as well as national ‘pull’. During decolonisation the withdrawing colonial government might try to insist on some provisions, and link them to aid after independence. Thus the British linked the ‘financial settlement’ in Solomon Islands to Solomon Islands extension of citizenship rights to Gilbertese settlers, and to the granting of leases to companies that would otherwise lose their right to own land in Solomon Islands. The French were insistent that the Vanuatu constitution provided for decentralised government that would protect the interests of French speaking regions. Australia insisted that PNG protect settler land rights, or provide compensation if land was taken (though it conceded a short period in which ‘non-indigenous citizens’ would receive slightly less protection).

In several countries there were separatist crises. Some parts of the country wanted to negotiate their own terms separately, and directly, with the colonial government, to adopt their own constitutions, and become independent separately, later, or not at all. There was a referendum that led to the separation of the Gilbert and Ellice Islands colony (GEIC). Bougainville sought separation from PNG, and Western Province sought separation from Solomon Islands, but (unlike in the US in Micronesia, or the British in GEIC) Australia and Britain did not allow referenda on separation in Melanesia. Vanuatu became independent with parts of the country in open, separatist rebellion. There ‘Westminster’ was imposed on the insurrectionary parts of the country by PNG troops, invited in by the Lini government, with logistical support from Australia and Britain.

The reform programs promoted by the Asian Development Bank in the 1990s were partly coercive. Legislative changes became conditions written into loan agreements. However the Bank also sponsored national conventions of government and peak business and NGOs to gain support for economic and constitutional changes.

WHO?

The most visible agents of transfer into, and within, the region were the advisers or consultants to the governments, or the review committees and commissions they created. Missionaries in Tonga had advised King Tupou on the form of the constitution, and its relationship to the Great Powers. The historian Jim Davidson and constitutional lawyer Colin Aickman had been influential on the ‘home grown’ constitution in Samoa that provided an inspiring model for other countries in the region. Consultants played an important role in PNG’s Constitutional Planning Committee. The historian Brij Lal was a member of Fiji’s Constitutional Review Commission,
and actively canvassed international comparisons and research.

The most widely influential adviser has been Yash Ghai, who has advised in PNG, Solomon Islands, Vanuatu, Fiji, and Cook Islands. His role was not simply to provide technical advice on constitutional law. He played a much more active entrepreneurial role, acting as advocate for national delegations in constitutional negotiations, and negotiating on their behalf. In Fiji he went further, supporting a pressure group to bring the government to accept the need to review the 1990 constitution, and later advising the opposition political party on its submission to the Review. He was trusted in part because of his personal qualities: warmth, intelligence, and stamina. He too came from developing country (Kenya), so the transfers could be seen as South-South borrowings, rather than impositions from the North. He is also an active researcher, so the solutions he transferred were more drawn more widely than the typical Commonwealth precedents. He also invented as well as transferred. Because he advised a series of Pacific governments, he promoted lateral transfers, as well as vertical ones.

Secessionists in Santo and later on Bougainville were often denied access to sources of technical assistance available to internationally recognised governments. On Santo they turned to the libertarian right wing Phoenix Foundation, who provided them with blueprints for minimal government based on a gold standard. The Fiji government, under international pressure, sometimes had to turn to private advice.

Transfers also took place through semi or non-government organisations, like the Citizens Constitutional Forum in Fiji (which was partly funded by an international NGO which in turn got some of its funding from northern governments).

**WHAT WAS TRANSFERRED?**

At its simplest, a law was transferred. There has been a long standing concern in the study of law with what is called the 'reception of laws' from one country's legal system into another. It has happened often in the past.

most of the private law of all the modern legal systems of the West (and also of some non-Western countries), apart from the Scandinavian, derives more or less directly from either Roman Civil Law or English Common Law

The transfer of laws is also, Watson's study of 'legal transplants' argues, a simple process, because

many legal rules make make little impact on individuals, and that very often it is more important that there be a rule; but what rule actually is adopted is of restricted significance for general human happiness.

Thus Watson concludes:
the creation of law for that precise society in which it is operating is neither always common nor very important.

Watson is arguing for the opposite of appropriateness. He draws attention to several puzzling aspects of constitutional transfer in the South Pacific. First, MPs in parliaments throughout the Pacific, like others, show great facility and relish in playing to parliamentary rules. The insiders are not bewildered. The parliamentary process seems to transfer quite easily. Second, the technical details may matter less than reformers think, or hope. Whether election is first past the post or by the Alternative Vote, and whether cabinet ministers are chosen from inside or outside parliament, may make little difference to the outcome. 'Institutions' in this sense don't 'matter' – or at least their content is less important than the fact that they exist, or don't exist. The same sort of people get elected, and they operate under the same sort of constraints. The rules matter to them, but should be of less concern to the rest of us.

Watson's radical rejection of 'appropriateness' also shifts attention from the process of transfer (the review committee, the convention, the adoption of the constitution) to the process of implementation (why was legislation implementing provincial government passed in PNG, but legislation governing political parties only recently brought to parliament?). Behind that is an even larger question of implementation. Why is it that law and policy is so often not implemented, or implemented by a process of negotiation and mutual adjustment rather than an unfolding blueprint?

**FROM WHERE?**

Constitutional transfer typically involved vertical movements, from international organisations to national governments, as well as lateral ones from country to country.
Colonialism appears not simply as a vertical institution for imposing, for example, British institutions on its colonies. It was also a powerful instrument for spreading ideas about, say, land tenure from colonial Sudan to colonial Solomon Islands. These lateral impositions might be just as inappropriate as the vertical ones. The Australian colonial administration, for example, used to argue that its colonies in Papua and New Guinea were sui generis, and comparisons with British colonial policy were inappropriate.

Samoa provided the model for a constitution that allowed the electoral system to continue to restrict suffrage to traditional leadership, even if that went against the norms of the international community (ironically, Samoans decided in a referendum of all adults to restrict the franchise to only some of themselves). Provisions for choosing the head of government, where the absence of political parties made it difficult to decide who should become Prime Minister, were also copied. PNG borrowed the idea of a leadership code from Tanzania, and it went on to be copied by Solomon Islands in a different form. PNG's Ombudsman Commission also proved a model for other countries' constitutions, and became involved in providing technical assistance to set up its counterpart in Vanuatu. The agents for these transfers were particular advisers, like Yash Ghai, legal training institutions, like the University of PNG's Law Faculty, and the 'epistemic community' of Commonwealth lawyers, trading ideas and best practice at conferences and meetings.

There was also transfer from the 'international community': multilateral organisations like the UN, or the Commonwealth that set informal standards. It was these standards that Samoa's constitution initially offended. International standards were also formalised by the Commonwealth in its Harare declaration, and Fiji's 1997 constitution was explicitly assessed against these standards, by the Commonwealth secretariat, before the country was readmitted to the Commonwealth. The constitution simply reframed the institutional transfer had already taken place. And in some ways the constitutions sought to create opportunities to reject, or reconsider what transfers had already taken place. Their provisions about land, for example, often allowed the legislature to reverse colonial legislation, and return land to its traditional owners. Their effect was to destabilise institutions transferred during the colonial period.

Some of the transfers were also between levels of government. Thus, for example, PNG devolved responsibility to Westminster style provincial governments, though allowed sufficient freedom of constitutional choice to allow several provinces to directly elect their Premiers, until a standard pattern of central government appointments of national MPs as Provincial Governors was imposed in the mid 1990s.

As we have seen, constitutional process as well as content was transferred. The idea of a participatory process, and the use of outside experts was transferred between countries. Samoa provided a model in the Commonwealth world. PNG's Constitutional Planning Committee provided an example for Solomon Islands, though the political situation in Vanuatu led to a much more truncated and party-driven process.

**DEGREES OF TRANSFER**

Some form of adaptation is typical. Nevertheless, there is a large amount of simple copying, particularly in legislation. And, it is difficult to calculate the amount and salience of 'transferred' and 'indigenous' elements in the constitutions. It is easier to look on the margins, for the introduced innovations (say, an Ombudsman Commission, or a Bill of Rights), and for the incorporation of local traditions (say, a Council of Chiefs). Provisions for traditional leaders may, of course, also be borrowed (Tonga's are called 'nobles'). They also reflect local interpretations of a diffused cultural tradition, in Polynesia.

It is also possible to look more structurally, at the degree to which the constitution integrates transferred and indigenous elements, and they
degree to which they simply coexist within it. Writing about the mobility of law, Orucu proposes a typology of combinations – a ‘puree’ in which the elements are thoroughly blended, through a ‘mixing bowl’ to a ‘salad plate’ in which the elements retain a parallel separate existence.\textsuperscript{13}

In these terms, Tonga – the oldest constitution – is nevertheless well ‘pureed’. It is the product of a revolutionary transformation of traditional society along the lines of a nineteenth century European monarchy. Fiji’s, by contrast, rests on a salad plate of separate and parallel political and legal institutions, though the 1997 constitution attempted a more thorough blending. Samoa’s attempted to blend introduced and indigenous in the provisions for the head of state (rotated among paramount chiefs), and in matai suffrage. There continues to a strong dualism between central and traditionally organised village level government.

**FACTORS FACILITATING OR CONSTRAINTING TRANSFER**

Here we can distinguish micro level institutional and personal constraints and opportunities from the grander operation of social forces, and historic compromises. In between lie contextual conditions, such as differences in levels of resources, and skills, as well as the character of already existing institutions in place, and the complexity of the thing being transferred.

The operation and visibility of consultants as agents of transfer could prove to be a liability. The presence of foreign advisers provided opponents of the constitutions with a powerful nationalist stick for criticism. The absence of a well trained local legal profession had a double effect. It reduced resistance to innovation and transfer proposed by the highly qualified and influential consultants. It also meant there was little capacity to implement what they had recommended, or had enacted in legislation. Yash Ghai concedes in hindsight that some of constitutional innovations for example to do with the lists dividing powers and functions between levels of government might have been ‘too clever’, and too complicated to be used easily.\textsuperscript{14} Local legal professions, and government draftsmen tended to act as restraints on transfer, but there were exceptions. The PNG constitution was drafted with a great deal of explanatory detail, in part to train the people who were meant to implement it. The Attorney General at independence in Vanuatu took a more radical view of the constitution than the advisers to the Planning Committee, including the idea that the dispossessing of settlers of their land did not need legislative enactment. All the law had to do was deal with the consequences of all land henceforth belonging to its customary owners.

More broadly, constitutional law talks of the significance of the Grundnorm, or the pre and extra constitutional premises on which the written constitution is based. It may refer to which territories and people are to be included or excluded – something that has to be decided before those included can vote to adopt a constitution. It may refer to a minimum of shared values. Or it may refer to something like a ‘political settlement’, an acceptance, even if formal or tactical, by relevant and powerful interest groups of the basic terms of their relationship. Fiji’s 1997 Constitution, for example, refers to an underlying ‘Compact’ between the different ethnic groups in Fiji, upon which it claims to be built.\textsuperscript{15} There is no such text or agreement, but the Compact refers to the aspiration of interracial settlement, based on a degree of mutual recognition and mutual interdependence.

Clearly, the transferability of a constitution will be determined by the presence or absence of an appropriate Grundnorm. It refers to something more political than sociological or cultural- to the political preconditions, the mobilisation of political forces, and settlements between political groups (classes, regions, ethnic or gender-based groups). In the absence of such settlements, the constitution, whatever its content, may not stick. In the South Pacific, provisions about land tenure and decentralisation, in particular, seemed to embody wider political settlements between racial groups (over land) and regions (over decentralisation). Politics since have often shown these settlements to be imaginary, or transitory.

Studies of the social conditions of democracy show the importance of international conditions, as well as the domestic balance between ethnic groups and classes.\textsuperscript{16} These have radically changed since the end of the Cold War, which gave small countries like those in the South Pacific ‘room to manoeuvre’ between the two world blocs. Now donors and international banks promote a single vision of good governance, and applied steady pressure on Fiji in the 1990s to return to the path.
of 'Westminster' democracy. The attempted coup in 2000 showed the absence of effective domestic conditions for it, but the international pressure is, if anything, stronger.

The possibility of transfer also depends on the degree to which the constitution aims simply to reflect local conditions, or to reform of transform them. Yash Ghai's evaluation of PNG's 1975 constitution, written for its 20th anniversary, concluded with a balance sheet. On the one hand, the constitution and the political system had survived: there were regular elections, and changes of government. There was a free press, and the rule of law more or less maintained. On the other hand 'almost none of the national goals has been achieved'. There was persistent gender inequality, limited participation, low levels of accountability, high levels of corruption and a 'horrendous breakdown in law and order'. There was a paradox: 'The Constitution works, but its primary goals are subverted'.

Transformation

Writing about Ethiopia, the constitutional lawyer Rene David criticised what he called the 'sociological' approach to law, which believed it necessary for the law to be aligned with local customs. Instead, he said, Ethiopians were living in a revolutionary period, looking for 'a total transformation of society'. Their new Civil Code aims at the perfection of society, and not only to a static statement of behaviour observed by a sociologist. For these reasons it is apparent that it was doubtlessly necessary to take customs into account, but it was necessary to keep this accounting limited, and not to fear changing them.

Survival

As Ghai suggests, the first, minimal test of performance might simply be survival. Fiji's 1970 and 1998 constitutions failed that test. Sometimes survival is taken for fitness, as if existing institutions have survived some evolutionary struggle. This is comforting to their incumbents, who may feel they have gained legitimacy through surviving the 'test of time'. However 'evolution' remains metaphorical, until we can specify a mechanism equivalent to natural selection in biology. As Douglass North has shown, there are often groups who benefit from the survival of inefficient institutions, and act firmly to conserve them 'rent seekers', who get paid more than a competitive market would offer them; or corrupt officials who benefit from the regulations they can use to extract bribes.

Reform

Reformers see 'thin' changes in the rules having a 'thicker' impact on the political system and society in which they are embedded. The law or constitution is the site of this wider leverage. For example the Cook Islands Commission looked at the history of the political system, its roots in competing tribally based systems, the role of missionaries, colonial rule, the evolution of political parties, and current problems of patronage and corruption. After this thick analysis of the 'political system', the Commission went on to make a number of thinner recommendations, mainly about changes to the constitution and other rules about allowances and political parties. The Commission expected that changing the rules – or enforcing them better – would have a wider impact on the political system. For example, the creation of 'national' seats would, they suggested, encourage the emergence of new kinds of candidate, less bound by local concerns. New limitations on campaign expenditure, advertising and the period of campaigns would reduce the influence of parties. These were hypotheses: statements about cause and effect that were contestable. National seats, for example, might require candidates to travel and advertise more, making them more dependent on party sponsorship, or the backing of business interests. The effects of a thin change were unpredictable – not least because specifying rules provides opportunities for wily candidates to 'get around' them. They might also have little impact on the 'thick' conditions that determined who stood and who won, whatever the rules.

Reformers see 'thin' changes in the rules having a 'thicker' impact on the political system and society in which they are embedded. The law or constitution is the site of this wider leverage. For example the Cook Islands Commission looked at the history of the political system, its roots in competing tribally based systems, the role of missionaries, colonial rule, the evolution of political parties, and current problems of patronage and corruption. After this thick analysis of the 'political system', the Commission went on to make a number of thinner recommendations, mainly about changes to the constitution and other rules about allowances and political parties. The Commission expected that changing the rules – or enforcing them better – would have a wider impact on the political system. For example, the creation of 'national' seats would, they suggested, encourage the emergence of new kinds of candidate, less bound by local concerns. New limitations on campaign expenditure, advertising and the period of campaigns would reduce the influence of parties. These were hypotheses: statements about cause and effect that were contestable. National seats, for example, might require candidates to travel and advertise more, making them more dependent on party sponsorship, or the backing of business interests. The effects of a thin change were unpredictable – not least because specifying rules provides opportunities for wily candidates to 'get around' them. They might also have little impact on the 'thick' conditions that determined who stood and who won, whatever the rules.
It conceded the latter might be more democratic, but AV promised to encourage ethnic conciliation, and so trumped democracy. This principle was more than a norm, to be embodied in the constitution, or an aspiration to be achieved through it. The possibility of order in Fiji, constitutional or not, was thought to depend on harmonious relations between indigenous and Indo-Fijians, and so the constitution had to be subordinated to that end.

**ALTERNATIVES TO WESTMINSTER**

Widespread consultation about a constitution does not necessarily, or of itself, lead to distinct, or indigenous outcomes. It may simply serve to explain and inculcate in the committee, and the population, the values of an introduced constitution. Ghai argues of Solomon Islands constitution that:

> Despite consultation with the people and active involvement of their leaders, the constitution cannot be said to be rooted in indigenous concepts of power, authority and decisionmaking.

Some politicians were given a chance to consider alternatives to Westminster, but generally chose against it. Ghai describes how, as consultant to the Constitutional Planning Committee in PNG he canvassed alternatives to ‘Westminster’. He found some support for a Presidential system, but the CPC saw a parliamentary executive as more participatory, and under control by the elected legislature. The alternatives, he said, were also abstract, and difficult to imagine.

Ghai also floated a committee system for Cook Islands, as part of its 1998 review. There might, he suggested, be more use of committees in the present ‘Westminster’ system. Or ‘government by committee’ might actually ‘replace the Westminster system’. The main aim would be to significantly reduce the role of parties, and to provide for the role of all MPs in policymaking and administration.

There was considerable popular support for such a move. The commission had found that 72% of the people it polled wanted participation by all MPs in government, but decided to leave the question of government by committee to a future review. However, the recommendation was not pursued, in part because the possibility was only introduced late in the review committee's discussions, and in part (I recall) from lack of enthusiasm from the politician who chaired the Commission.

In Solomon Islands the most sustained attempt to construct a more ‘appropriate’ alternative to Westminster took place before independence, but was later rejected. Solomon Islands had been in favour of a more conventional ‘Westminster’ system. In 1967 the colonial government set out the reasons it thought that Westminster might be unsuitable for an independent Solomon Islands:

- scatteredness of islands
- poor communications
- shortage of qualified people
- small population
- diverse cultures
- lack of national unity
- dependence on foreign aid.

A review committee came up with an alternative system for a Governing Council in which executive functions were distributed among five committees. All members of the Council sat on one or other of the committees, which also included some senior public servants. The Council sat in public, as a legislature, while the committees sat in private as executives. The system was said to be less divisive than Westminster, it did not need political parties, it provided opportunities for learning, and embodied Melanesian traditions of consensus. It was not, however, entirely innocent of transfer, as it was said to have been adapted from models in British local government, and the island of Jersey.

The Governing Council system ran from 1970 to 1974. Politicians criticised it for secrecy and failure to provide leadership, and it was replaced by a more Westminster style of government by a Chief Minister and Council of Ministers.

The only deliberately chosen, and continuously successful break with Westminster has been in Kiribati, where the President is chosen by a two step process of shortlisting by MPs of three of their number, and then a popular vote on the shortlist.

**CONCLUSIONS**

Constitutions, like states, face two ways – inwards and downwards to the societies they govern, and outwards and sideways to each other, and the ‘international community’. In some parts of the Pacific, ‘Westminster’ has succeeded almost irrespective of its context. Peter Fitzpatrick’s book on the PNG Constitution expresses surprise that, after all the
fuss, the outcome in PNG was so ‘ordinary’. The ordinariness may be an effect of executive control of the process of implementation, or the normalising effect of the drafting (of which the Constitutional Planning Committee was suspicious). It may also be an effect of a more fundamental process of homogenisation, which Di Maggio and Powell call ‘institutional isomorphism’, where new institutions acquire legitimacy by taking on the form of already existing ones.

Thus Westminster spreads by a process of replication, almost independently of the underlying conditions in which it finds itself. The deliberation and rejection of alternatives in Solomon Islands shows how this is not an automatic ineluctable process, but a result of deliberate choices by MPs. Westminster succeeds not because of its internal virtues (which are somewhat arbitrary), or its appropriateness to local conditions (which may not matter). It succeeds because it was there first.
NOTES

5. Dolowitz and Marsh, ‘Learning from Abroad’, 13-14
9. A. Watson, Legal Transplants, 22.
10. Ibid. 96.
11. Ibid. 100.
14. Interview in Hong Kong 14.4.99
16. Rueschemeyer Stephens and Stephens, Capitalist Development and Democracy
19. There is no known organisational process that generates random changes, and then selects survivors.
The State, Society and Governance in Melanesia (SSGM) Project was launched in 1996 in the Research School of Pacific and Asian Studies, Australian National University. Funded by the ANU with financial assistance from the Australian Government through AusAID, it comprises three Fellows (Dr Bronwen Douglas, Mr Anthony Regan and Dr Sinclair Dinnen), a Convenor (Mr David Hegarty, on secondment from the Department of Foreign Affairs and Trade) and an Administrator (Ms Helen Glazebrook).

SSGM Discussion Paper Series

96/1: Peter Larmour, Research on Governance in Weak States in Melanesia
96/2: Peter Larmour, Models of Governance and Development Administration
96/3: David Ambrose, A Coup that Failed? Recent Political Events in Vanuatu
97/1: Sinclair Dinnen, Law, Order and State in Papua New Guinea
97/2: Tomasi Vakatora, Traditional Culture and Modern Politics
97/3: 'I Futa Helu, Tradition and Good Governance
97/4: Stephanie Lawson, Cultural Traditions and Identity Politics: Some Implications for Democratic Governance in Asia and the Pacific
97/5: Peter Larmour, Corruption and Governance in the South Pacific
97/6: Satish Chand, Ethnic Conflict, Income Inequality and Growth in Independent Fiji
97/7: Sam Alasia, Party Politics and Government in Solomon Islands
97/8: Penelope Schoeffel, Myths of Community Management: Sustainability, the State and Rural Development in Papua New Guinea, Solomon Islands and Vanuatu
97/9: Philip Tepahae, Chiefly Power in Southern Vanuatu
98/1: John Haglegam, Traditional Leaders and Governance in Melanesia
98/2: Binayak Ray, Good Governance, Administrative Reform and Socioeconomic Realities: A South Pacific Perspective
98/3: Eric Wittersheim, Melanesia Élites and Modern Politics in New Caledonia and Vanuatu
98/5: Peter Larmour, Making Sense of Good Governance.
98/6: Bronwen Douglas, Traditional Individuals? Gendered Negotiations of Identity, Christianity and Citizenship in Vanuatu
98/7: Raymond Aphthorpe, Bougainville Reconstruction Aid: What are the Issues?
99/1: John Rivers, Formulating Policy for Community Relations Programs
99/2: Lissant Bolton, Chief Willie Bongmata Malo and the Incorporation of Chiefs in the Vanuatu State
99/3: Eugene Ogan, The Bougainville Conflict: Perspectives from Naisio
99/4: Grace Melisa and Elise Huffier, Governance in Vanuatu: In Search of the Nakamol Way
00/1: Peter Larmour, Issues and Mechanisms of Accountability: Examples from Solomon Islands
00/2: Bronwen Douglas (ed), Women and Governance from the Grassroots in Melanesia
00/3: Bronwen Douglas, Weak States and Other Nationalisms: Emerging Melanesian Paradigms?
00/4: Philip Hughes, Issues of Governance in Papua New Guinea: Building Roads and Bridges
00/5: KJ Crossland, The Ombudsman Role: Vanuatu’s Experiment
01/1: Peter Larmour, Westminster in the Pacific: A 'Policy Transfer Approach'

State, Society and Governance in Melanesia Project
Research School of Pacific and Asian Studies
Australian National University
Canberra ACT 0200
AUSTRALIA

Convenor: David Hegarty
Telephone: +61 2 6125 4145
Fax: +61 2 6125 5525
Email: dhegarty@coombs.anu.edu.au

Administrator: Helen Glazebrook
Telephone: +61 2 6125 8394
Fax: +61 2 6125 5525
Email: ssgm@coombs.anu.edu.au

http://rspas.anu.edu.au/melanesia