

Chapter 1

Introduction

1.1 Rationale

This project was conceived as a piece of ‘action research’ linked to the Commonwealth Local Government Forum (CLGF) Pacific Project – a capacity building programme for local government in nine Pacific island countries.¹

At the November 2006 meeting of the project’s Technical Advisory Panel (TAP) for the Pacific Project, a number of participating countries indicated that they were undertaking, or about to undertake, reviews of legislation governing the operations of local government. Across the region local governments take a variety of different forms, ranging from traditional village structures to fully-fledged municipalities operating along similar lines to local councils in Australia and New Zealand.

Whatever form local government takes, it is important that democratic principles are applied to the maximum possible extent, and that the councils are as effective and efficient as possible in addressing the needs of communities. These objectives are encapsulated in CLGF’s Aberdeen Agenda (2005), a set of principles for local democracy and good governance adopted in 2005 by Commonwealth Heads of Government (see section 4.1). An appropriate legislative and regulatory framework, together with supportive policies, is essential for this purpose.

Delegates to the TAP meeting advised that there was considerable room for improvement in local government legislation, and several countries had sought support from the Pacific Project to review and strengthen their existing frameworks. The intent of the research was therefore to:

- review existing legislative frameworks across a range of different countries and institutional settings;
- identify examples of successful practice and areas for improvement;
- provide a ‘menu’ of principles, concepts and provisions that can be incorporated into new or revised local government acts and regulations;
- work with selected countries to update their legislative frameworks; and
- share experience gained throughout the region.

Three countries were selected as case studies: Fiji, Solomon Islands and Samoa. The action research was to be undertaken in conjunction with work being carried out by CLGF and its partners as part of the Pacific Project. In the event, this was only partly achievable in Solomon Islands and not at all in Fiji and Samoa. This was due to delays in CLGF activities beyond its control and, in the case of Fiji, a military coup and resulting major changes in government policy towards local

government.² However, in all three cases practice-focused research was undertaken in consultation with the relevant government agencies, and research findings are believed to reflect the realities of the policy environment. In Fiji, it was possible to discuss legislative and related issues with the Local Government Review/Reform Committee established by the interim military-backed government, and to follow some of the subsequent implementation of the reform package. Also, the research encompasses the findings of two mid-term reviews of relevant capacity building projects: the CLGF Pacific Project and the Honiara City Council Institutional Capacity Building Project.

1.2 Project goals

The project goals were:

- to assist Pacific island countries in their efforts to update local government acts and regulations so that local councils can operate as efficiently and effectively as possible in accordance with democratic principles; and
- to identify examples of successful practice and provide a ‘menu’ of principles, concepts and provisions that can be incorporated into new or revised local government acts and regulations.

1.3 Methodology

The project was designed in eight stages:

1. A preliminary review of relevant literature and existing local government legislative frameworks in some of the participating countries, to compare existing provisions and identify examples of successful practice and possible improvements
2. Preparation of a draft ‘menu’ of principles, concepts and provisions that can be incorporated into new or revised local government acts and regulations to promote effective and efficient local government
3. A regional workshop (which took place in Suva, 2007) to discuss the draft ‘menu’ and prepare a provisional set of ‘good practice’ principles taking into account associated issues or constraints in the Pacific context
4. Initial case studies of selected countries to review the practical relevance of the ‘menu’ and principles
5. A further regional workshop (in Apia, 2008) to review the results of the country studies and more recent developments across the region as a whole, and to agree a revised set of principles
6. Follow-up research in the three selected countries
7. Documentation of key findings and completion of a draft final report for discussion with research partners
8. Finalisation and dissemination of results across the region.

As noted above, the three case study countries were Fiji, Solomon Islands (Honiara City Council) and Samoa. These were selected on the basis that:

- they were readily accessible to the author and offered the potential for multiple visits, linked to other activities;
- legislative and/or system reviews were planned in conjunction with CLGF projects; and
- they provided examples of very different legislative frameworks: one of the Pacific's best developed 'systems' of local government, but operating within tight legislative constraints and ministerial oversight (Fiji)³; an 'enabling' act with relatively little ministerial oversight (Honiara); and reliance on an essentially traditional system of local governance with minimal legislation, but with emerging pressures for change (Samoa).

Case studies of one of the small island states (Kiribati, Tuvalu or Cook Islands) and of Papua New Guinea (the Pacific's largest local government system) would have been valuable, but were logistically impossible within time and budget constraints. However, some broader issues and lessons from all nine of the Commonwealth countries that participate in the CLGF Pacific Project have been captured in the overview material.

While the focus of this research rests firmly on legislation, it must be emphasised at the outset that legislation cannot be effective without supportive policy frameworks. Policy issues are thus considered alongside legislation in each of the case studies, and some conclusions about the limits to legislation and the role of policy are presented in the final section.