

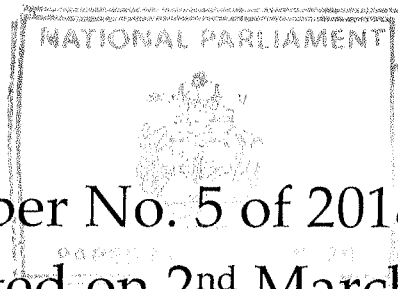


National Parliament of Solomon Islands

Bills and Legislation Committee

Committee Report

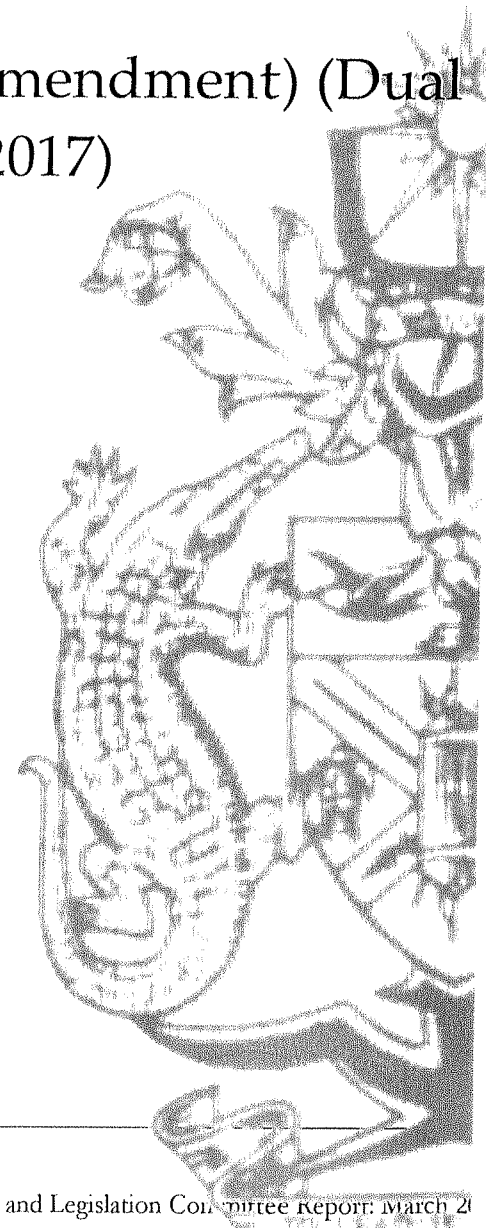
Report on the Constitutional (Amendment) (Dual
Citizenship) Bill 2017 (No. 9 of 2017)



NP-Paper No. 5 of 2018

Presented on 2nd March, 2018

National Parliament Office



COMMITTEE MEMBERS

The current members of the Bills and Legislation Committee (10th Parliament) are:

Hon. Matthew C. Wale, MP (Chairman)

Hon. Manasseh Maelanga, MP

Hon. Dr Derek Sikua, MP

Hon. Christopher Laore, MP

Hon. Douglas Ete, MP

Hon. Peter Tom, MP

Hon. Namson Tran, MP

Other members* of the Bills and Legislation Committee during the hearings into the Bill were:

Hon. Connelly Sandakabatu, MP (former Chairman)

Hon. Jeremiah Manele, MP

Hon. Rick Houenipwela, MP

Hon. Dr Culwick Togamana, MP

Hon. Steve Abana, MP

Hon. Commins A. Mewa, MP

Secretariat:

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* Membership ceased after change of Government in November 2017.

CHAIR'S FOREWORD



Hon. Matthew C. Wale, MP, Chairman

REPORT OF THE BILLS AND LEGISLATION COMMITTEE

Mr. Speaker,

Pursuant to Standing Orders No. 71 (b) and (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me, Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Constitution (Amendment) (Dual Citizenship) Bill 2017** for laying before Parliament.

A handwritten signature in black ink, appearing to be 'M. Wale', written in a cursive style.

Hon. Matthew C. Wale

Chairman

Bills and Legislation Committee

2 March, 2018

COMMITTEE FUNCTIONS

The Committee is established under *Standing Order*⁷¹; an Order made pursuant to the *Constitution*¹ and has the functions, together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

¹ Section 62, *Constitution of Solomon Islands* 1978.

EXECUTIVE SUMMARY

Notice of The Constitution (Amendment) (Dual Citizenship) Bill 2017 ("Bill") was received by the Honourable Speaker on the 4th September, 2017. The Bills and Legislation Committee (the Committee) conducted its hearings into the Bill on the 24th and 25th of October 2017.

The Object of this Bill is to remove the Constitutional prohibition on dual citizenship. It does this by the repeal of section 23 of the Constitution. The bill also amends section 49(1) (a) of the constitution to prohibit persons holding dual citizenship from being eligible for election to Parliament.

This Bill paves the way for the Citizenship Bill 2017 (No 8 of 2017). Members are therefore advised to consider this Bill in light of the Citizenship Bill 2017.

The Committee commends the Bill to the House but requests the government to allow the House to deal with the Citizenship Bill 2017 (No.8 of 2017) first.

Further, on the matter of the Citizenship Bill 2017, the Committee is recommending that it be withdrawn for further policy work. If that recommendation is accepted by the government, then the Committee recommends that the Constitution (Amendment) (Dual Citizenship) Bill 2017 (No.9 of 2017) be deferred to be dealt with once a revised Citizenship bill is brought back to Parliament.

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1.0 INTRODUCTION

This Report presents the findings and recommendations by the Bills and Legislation Committee ('the Committee') after its inquiry into the **Constitution (Amendment) (Dual Citizenship) Bill 2017** ('the Bill') as required under the Standing Orders of the National Parliament of Solomon Islands ('the Standing Orders').

Relevant stakeholders² were invited before the Committee and made presentations and or provided submissions on the contents, policy goals, and intentions of the Bill.

The hearings into the Bill were held on the 16 and 17th of October 2017 at the National Parliament Building. The List of witnesses that appeared before the Committee and minutes of these proceedings are contained in Appendices 1 and 2.

A list of written submissions received by the Committee can be found in Appendix 3.

² See Appendix 1

2.0 BACKGROUND INFORMATION

The Solomon Islands Constitution³ prohibits dual citizenship. Section 23 of the Constitution requires that a person renounce their citizenship of another country upon acquiring citizenship of Solomon Islands. Similarly, Part IV of the Citizenship Act (Cap.57) sets out the actions that will affect a person losing his/her citizenship. The purpose of the Constitution (Amendment) (Dual Citizenship) Bill 2017 is to allow Parliament to prescribe for the process of application and granting of dual citizenship.

Dual nationality is a growing phenomenon and an increasing number of countries have amended their national laws to allow individuals to retain their original citizenship when they are naturalised in another country. All major immigration countries like; United Kingdom, United States of America, Australia, Canada, and New Zealand have taken the leading role in allowing and promoting dual citizenship in their countries.

This Bill paves the way for legislation to enable descendants of Solomon Islanders who were indentured labourers in other countries to acquire citizenship in Solomon Islands without losing their current citizenship. Such legislation would also enable persons who renounced their Solomon Islands citizenship because of marriage to a foreigner to regain it.

Being a constitution amendment, this Bill does not prescribe the details of citizenship acquisition, renunciation, etc. Members are therefore obliged to consider this bill in light of the more detailed Citizenship Bill 2017 to see if the policy objectives stated in this Bill are adequately provided for in that other bill.

It has been argued that dual citizenship is a catalyst for economic development and that Solomon Islands must join other countries in reforming its laws to take advantage of the benefits afforded by this phenomenon.

2.1 Structure of the Bill

The Bill repeals Section 23 and amends 49(1) (a) of the Constitution. The Bill has 4 clauses. Clause 1 provides for the short title of the Bill. Clause 2 provides for the commencement of the Act. The Act Commences on a date appointed by the Minister by notice in the Gazette.⁴ Clause 3 repeals section

³ Section 23, Solomon Islands Constitution

⁴ *Explanatory memorandum*, Constitutional(Amendment) (Dual Citizenship) Bill 2017

23 of the Constitution. Section 23 prevents a Solomon Islands citizen from holding dual citizenship by specifying that a Solomon Islands citizen who is national of another country ceases to be a Solomon Islands citizen, unless he or she renounces nationality of that other country.⁵ Clause 4 amends section 49 to clarify that dual citizenship is grounds for ineligibility for election to Parliament.

2.2 Objectives of the Bill

The Bill proposes to remove the Constitutional prohibition on dual citizenship and to clarify that holding dual citizenship prevents a person from being a Member of Parliament.⁶ This will facilitate the return and reintegration of descendants of Solomon Island citizens who lost their citizenship by reason of marriage, forced labour or naturalisation in another nation. It will also allow naturalised Solomon Islands citizens to regain or retain their birth nationality. The policy to allow citizenship of more than one country is to position Solomon Islands to be part of the growing trend in the 21st century.

⁶ *Objects and Reasons, Constitution(Amendment) (Dual Citizenship) Bill 2017*

3.0 ISSUES DISCUSSED

These are some issues and observations the Committee gathered during the hearings on the Bill.

3.1 Social development and cohesion of Solomon Islands society

Any legislation or policy that has the effect of integrating peoples of different backgrounds and nationalities must be well thought out, and adequate mechanisms put in place to ensure such legislation or policy enhances social cohesion rather than threaten it.

Whilst the Committee applauds the government's policy intention to:

- A) allow descendants of indentured Solomon Island labourers in other countries to acquire Solomon Islands citizenship,
- B) enable those who lost/renounced Solomon Islands citizenship because of marriage to a foreigner to regain it,
- C) allow naturalised Solomon Islanders who renounced their original citizenship to regain their citizenship of origin, and
- D) children of mixed parentage to acquire Solomon Islands citizenship, and keep their current citizenship,

the committee is concerned that citizenship must be prized as the most valuable gift of the State and it should not be too easy to acquire. Further, easing acquisition of citizenship must be part of a broader policy that takes into account population growth, population spread throughout the country, the skills needs of the domestic economy now and into the future, and the impact on indigenous people in the economy and in society generally.

From the inquiry, it is obvious to the Committee that these very important policy matters were not seriously considered during the process of consultations on these two bills. Further, it is obvious to the Committee that the benefits purported to come from these legislations are assumptions no serious effort was made to affirm. For example, no statistics were provided to substantiate any of the assumptions. Parliament is asked to accept these assumptions without the requisite evidence.

3.2 Past experience

The Committee notes the experience the government has had over the past in administering the Citizenship Act (Cap 57). There has been serious corruption in the administration of that Act. For instance, there have been documented cases of persons acquiring Solomon Islands citizenship well before they have met the prerequisite minimum statutory time threshold. The Committee further

notes that on these cases, no action has ever been taken by the government to protect the integrity of citizenship and bring perpetrators to justice. With the easing of restrictions on acquiring citizenship, the Committee is concerned that lapses in administration will make the process vulnerable to abuse and corruption.

The Committee is concerned that these matters were not given the weighty consideration that they deserve.

3.3 Other levels of Government

The Bill excludes dual citizens from election to the national Parliament. However, the Bill is silent on whether dual citizens are eligible for election to other levels of government. The Committee prefers that the Bill is clear on this matter.

In his evidence on the above concern, Mr. John Muria Junior stated:

*"It is designed only for national Parliament. The reason being ... we are dealing with issues of national security, defence, state to state, so our allegiance in dealing with others must just be only for Solomon Islands. In terms of the provincial governments and the local governments... if there is a policy change along the way to include them, there is room to include them."*⁷

3.4 Naturalised citizens

The Committee noted during the hearing that those naturalised citizens' who were here before independence are not affected by this Bill. In her evidence, Ms. Pamela Wilde clarified that;

*"Anyone who is already a citizen of Solomon Islands, this Bill will not change that status or replace citizenship. It clearly states in the new citizenship act that all people who have been either by birth or naturalised citizens will remain citizens. The only way it may affect them is if they were by birth born in another country or are perhaps eligible they may be able to now regain or retain the citizenship of the other country from whence they came."*⁸

3.5 Consultation

The Committee noted during the hearing that there was no wide national consultation undertaken on the Bill. In his evidence, the Chairman of the Citizenship Commission informed the Committee that he was not consulted on the Bill and knew nothing about the Bill. Similarly, Mr. Bauro Koraua, representing the Kiribati people informed the Committee that they were also not consulted on this

⁷ Mr. John Muria Junior, Prime Minister's Office, Evidence, 24 October 2017, p3.

⁸ Ms. Pamela Wilde, Ministry of Justice and Legal Affairs, Evidence, 24 October, 2017, p12.

Bill.⁹ It is not clear that groups representing indigenous business were consulted. On a matter as important as citizenship, it is important that all key stakeholders and communities are consulted, or at the very least, they should be invited to make representations.

3.6 Double taxation

Generally, dual citizens are required to lodge taxation returns in both countries of which they are citizens. The matter of where they pay tax is subject to double taxation treaties, and the domestic taxation laws of each country. Dual citizens have the obligation to understand and comply with these requirements in both countries. No consultation was made with the Inland Revenue Division on the implications for tax administration.

Recommendation 1

The Committee recommends that the Bill clearly state whether dual citizens are eligible for election to other levels of government.

Recommendation 2

The Committee recommends that the government review taxation policy and legislation in light of this reform.

Recommendation 3

The Committee recommends that, as a matter of sequence, Parliament first deals with the Citizenship Bill 2017 (No.8 of 2017) before dealing with this Bill. The Committee sees this as very important to helping members understand the implications of this constitution amendment bill.

END OF REPORT

⁹ Mr. Bauro Koraua, Solomon Islands Kiribati Community, Evidence, 24 October, 2017, p20.

4.0 APPENDICES

Appendix 1: Witnesses

Tuesday 24th & Wednesday 25th October, 2017

Time	Witnesses	Position
11:20am – 12:10pm	Mr John Muria Junior	SSPM, Office of the Prime Minister & Cabinet
	Mr Christopher Waiwori	National Consultant/Law & Justice, Office of the Prime Minister & Cabinet
	Ms Catriona Steele	Legal Drafts Person, Attorney General Chambers
1:30pm – 2:30pm	Ms Pamela Wilde	Legal Policy Advisor, MJLA
	Mr George Palua,	Permanent Secretary, MHA
	Mr Freddie Irofiua Ota'au,	Undersecretary, MHA
	Mr Mason Fugui,	Director Immigration, MCILI
	Mr Nelson Kere	Senior Legal Officer, Legal Policy Unit, MJLA
2:35pm – 3:27pm	Mr Koraua Bauro	Solomon Islands Community
10:20am – 11:34am	Mr Eric Kwalai,	Chairman, Citizenship Commission
	Mr William Misibini,	Secretary to Citizenship Commission

Appendix 2: Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

P.O. Box G19,
Honiara.
Tel: 28520/23424.
Fax: 24272

Minutes of Proceeding

Committee Hearing into the Constitutional (Amendment) (Dual Citizenship) Bill 2017

Day 1/Tuesday 24th October 2017, CR II, Parliament House @ 11:20am.

1. Members Present

Hon. Connelly Sandakabatu, MP (Chairman)
Hon. Steve William Abana, MP
Hon. Rick Houenipwela, MP
Hon. Jeremiah Manele, MP
Hon. Derrick Manu'ari, MP
Hon. Dr Culwick Togamana, MP
Hon. Peter Tom, MP
Hon. Matthew Wale, MP

Members Absent

Hon. Commins Mewa, MP
Hon. Dr. Derek Sikua

Secretariat

Mr Whitmon Tabiru, Committee Secretary
Ms Salome Pilumate, Committee Secretary
Mrs Emily Kupenga, Committee Secretary
Ms Theresa Nori, Hansard
Mr Ignatius Talifilu, Hansard
Mr Philemon Loe, Media

2. Prayers

Hon. Dr. Culwick Togamana said the opening prayer

3. Welcome and Opening Remarks

The Chairman made opening remarks by acknowledging and welcoming the sponsoring Ministry, which is the Office of the Prime Minister and Cabinet. The witnesses were reminded of the Parliamentary Privileges, recordings of the proceeding, Member of the Committee were introduced. He then invites the SSPM to deliver his presentation.

4. Committee hearing into the Constitutional (Amendment) (Dual Citizenship) Bill 2017

The Hearing proper commenced and the following witnesses were admitted.

Hearing 1 Witnesses

Mr John Muria Junior, SSPM, Office of the Prime Minister & Cabinet

Mr Christopher Waiwori, National Consultant/Law & Justice, Office of the Prime Minister & Cabinet

Ms Catriona Steele, Legal Drafts Person, Attorney General Chambers

The Committee questioned the witnesses on their presentation and on the contents of the Bill. The witnesses answered, made clarification and commented on issues raised.

The Chairman thanked the witnesses for their attendance and concluded the proceeding.

Hearing suspended at 12:10pm.

The Hearing resumed at 1:30pm and the following witnesses were admitted.

Hearing 2 Witnesses

Ms Pamela Wilde, Legal Policy Advisor, MJLA

Mr George Palua, Permanent Secretary, MHA

Mr Freddie Irofiua Ota'au, Undersecretary, MHA

Mr Mason Fugui, Director Immigration, MCILI

Mr Nelson Kere, Senior Legal Officer, Legal Policy Unit, MJLA

The Chairman made his opening statement and invites the witnesses to make their presentations.

The Committee questioned the witnesses on their presentation and on the contents of the Bill. The witnesses answered, made clarification and commented on issues raised.

The Chairman thanked the witnesses for their attendance and concluded the proceeding.

Hearing suspended at 2:30pm.

The Hearing resumed at 2:35pm and the following witnesses were admitted.

Hearing 3 Witness

Mr Koraua Bauro, Solomon Islands Kiribati Community

The Chairman called the meeting to order and invites the witness to make his presentation.

The Committee questioned the witness on his presentation. The witness answered the issue raised.

The Chairman thanked the witness for his attendance and concluded the proceeding.

Hearing suspended at 3: 27pm

Evidence concluded at 3:30pm

Hearing Adjourned

Day 2 /Thursday 25th October, 2017, CR II, Parliament House @ 10:20am.

1. Members Present

Hon. Connelly Sandakabatu, MP (Chairman)

Hon. Steve William Abana, MP

Hon. Rick Houenipwela, MP

Hon. Jeremiah Manele, MP

Hon. Derrick Manu'ari, MP

Hon. Dr Culwick Togamana, MP

Hon. Peter Tom, MP
Hon. Matthew Wale, MP

Members Absent

Hon. Commins Mewa, MP
Hon. Dr. Derek Sikua

Secretariat

Mr Wilson Orisi, Committee Secretary
Ms Ivory Iruha'a, Committee Secretary
Mr Marlon Keni, Hansard
Mr Philemon Loe, media

2. Prayers

Hon. Jeremiah Manele said the opening prayer.

3. Welcome and Opening Remarks

The Chairman made opening remarks. Welcomed the witness and informed the witness of Parliamentary Privileges employed in this inquiry and the recording of the proceeding. The Chair introduced the Members of the Committee and invite the witness to make his opening presentation.

4. Committee hearing into the Constitutional (Amendment) (Dual Citizenship) Bill 2017

The Hearing proper commenced and the following witness was admitted:

Hearing 4 Witness

Mr Eric Kwalai, Chairman, Citizenship Commission
Mr William Misibini, Secretary to Citizenship Commission

The Committee then go through the general principles of the Bill with the witness. The witness also answered and made clarification on issues raised.

Evidence concluded and the Chair thanked the witness for their attendance and contribution on the Bill.

5. Adjournment

The Committee adjourned hearing at 11:34am

6. Tabled Document

Nil

Appendix 3: Submissions

No.	Title	Author
1	Submission to BLC	SI National Council of Women (NCW)
2	Submission to BLC	Forum Solomon Islands International (FSII)
3	Bills Checklist	Office of the Prime Minister & Cabinet (OPMC)
4	Copy of Annex 5 – Budget Mapping (V2)	OPMC

