

AusAID

Stretem Rod Blong Jastis

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Acronyms

AFP	Australian Federal Police
AusAID	Australian Agency for International Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of Children
CRPD	Convention on the Rights of Persons with Disabilities
DESPAC	Department of Strategic Planning and Aid Coordination
DJAG	New South Wales Department of Justice and Attorney General
GoA	Government of Australia
GoV	Government of Vanuatu
HoA	Heads of Agency
MoIA	Ministry of Internal Affairs
MoJCS	Ministry of Justice and Community Services
NGO	Non Government Organisation
NZAP	New Zealand Aid Program
PacLII	Pacific Islands Law Information Institute
PACTAM	Pacific Technical Assistance Mechanism
PDD	Partnership Design Document
PPDP	Pacific Police Development Program
PPO	Public Prosecutor's Office
PSO	Public Solicitor's Office
SLO	State Law Office
USP	University of South Pacific
VAPP	Vanuatu Australia Police Project
VLSSP	Vanuatu Legal Sector Strengthening Program

Executive Summary

The Governments of Vanuatu and Australia have agreed that ongoing cooperation in the law and justice sector will make an important contribution to the achievement of Vanuatu's development objectives. Cooperation over the last decade has assisted with the capacity development of key national law and justice agencies, including the Vanuatu Police Force, and has enabled these organisations to provide increasingly high quality and sustainable services to the Government and the population. Now, in a mature partnership, with a new commitment by the Government of Vanuatu (GoV) to a sectoral approach and with a decade of lessons learned, the opportunity exists for a different phase of cooperation. The next phase, while maintaining the highly valued and effective elements from the current programs where appropriate, will also support GoV leadership across the sector and improve coordination across the many elements of Australian and other donor contributions. The next phase will be flexible, to respond to emerging priorities as the GoV works its way through the issues associated with increased sectoral coherence. The next phase reflects commitment by the Government of Australia (GoA) described in its recently released Framework for Law and Justice Engagement with the Pacific (June 2010) and the elements prioritized within this Framework.

Current GoV and GoA cooperation included two substantial activities, the Vanuatu Legal Sector Strengthening Program (VLSSP) and the Vanuatu Police Force Capacity Building Program (VPFCBP) – now Vanuatu Australia Police Project (VAPP). VLSSP commenced in 2000 and its third phase will end in June 2011. VLSSP contributed to the quality and capacity of GoV legal services, through a combination of long-term technical assistance (TA) personnel placed in a small number of agencies at national level and a range of other capacity development support in the sector. Over time the Legal Sector Program has broadened from a focus on individual capacity development to support sector-wide planning and organisational development. This has been well regarded by GoV and there is a clear demand for continuity. This reflects the ongoing challenge of attracting and retaining appropriately skilled ni-Vanuatu lawyers in the public sector, as is the case in other Pacific Islands with relatively small populations. It also reflects the importance of continuous strengthening of GoV's efforts to provide accessible legal services and advice, to support broader national economic and social development efforts.

The Police Program (VPFCBP) commenced in 2006 and the current phase, the Vanuatu Australia Police Program, is due to complete in December 2012. It supports a range of policing priorities through placement of full-time advisers, short term personnel and direct funding for infrastructure, equipment, training and other activities. There is a shared commitment in GoA to strengthen coordination mechanisms within Australian Government agencies to ensure assistance is complementary and mutually beneficial. This is required under Australia's Framework for Law and Justice Engagement with the Pacific and in the Vanuatu context, will contribute to supporting GoV's own commitment to a sectoral approach.

During the June 2010 first annual partnership talks between Australia and Vanuatu, the Director General of AusAID met with Vanuatu's Minister of Justice and Community Services, (Mr Bakoa Kaltonga) and

Minister of Internal Affairs (Mr Moana Carcasses)¹. Both Ministers noted their appreciation of AusAID support to the law and justice sector and were pleased that the law and justice sector will be included as a schedule in the next phase of the Partnership for Development. Both Ministers noted the need to improve governance capacity including planning, budgeting, financial management, human resource management, and the need to strengthen monitoring and reporting across the sector. The Minister of Justice also noted the GoV is seeking to establish a sector-wide approach to the law and justice sector and that a new phase of support should support sector coordination mechanisms, under the leadership of GoV.

This Partnership Design Document (PDD) covers a new phase of cooperation, entitled *Stretem Rod Blong Jastis*², for a four year period from 1 March 2012 to 31 March 2016. This will include an initial contract for 16 months (to 30 June 2013) (Stage One), with a potential extension for Stage Two. This PDD reflects a process of consultations with GoV and other Vanuatu and Australian stakeholders from March to June 2010. A Concept Paper (May 2010) provided a framework for the design. It noted AusAID's interest in planning for a modest ongoing program of assistance to the sector, building on experience to date and reflecting the current context.

In 2010, there was clear evidence of emerging GoV leadership within a sectoral approach and a shift to coordinated planning, budgeting, prioritizing, implementation and monitoring, in what has been a disparate sector to date. There is also clear need for improved coordination of the many donor-funded activities supporting the sector, particularly with VAPP, and this will be an explicit area of work for the next phase of cooperation. Australia's experience in this sector in Vanuatu, as well as in Papua New Guinea, confirms that a coherent approach by Government to the sector and to donor support to the sector can make a significant contribution to the quality of and access to justice. Both GoV and GoA recognize the critical nature of a capable police service to the achievement of law and justice sector objectives. Consistent with this focus on coordination within the sector and within donor contributions, there seems also to be significant potential in the strengthening of policy development aspects of the law and justice sector. This would help to improve the links between research information generated from a number of sources and policy changes in key legal issues, for example those relating to family law, kastom law, professional development of legal officers and human rights (for women, children and people with disability).

In summary, the Partnership will include three components over two stages. The first component will support GoV's emerging leadership in a sector coordination approach, including coordination of donor-funded inputs to the sector. The second component will contribute capacity development inputs to a variety of stakeholders in the sector in a way which is both coherent and flexible. The third component

¹ All references to Ministers responsible for these portfolios refer to those in positions at the time of the design mission,

² This name was first suggested by the Minister for Justice and Community Services and then confirmed by participants of a meeting of sector stakeholders as an appropriate title for the Partnership. It roughly translates to mean "clear path for justice sector".

will provide information, research and monitoring findings to assist GoV in its policy development processes related to law and justice. Within Stage One, the first nine months (from 1 February 2012 to 31 October 2012) will be a “planning phase”, as requested by GoV, which will build on GoV efforts during the first half of 2012 to detail its sector strategy and finalise action plans. During this period, the Partnership will support the GoV to finalise clear implementation plans for the sector and for individual agencies as part of its new sectoral approach, and to prioritise within these plans, the selection of activities which require donor contributions. Capacity development processes, including the placement of a Program Coordinator and specialist legal personnel in selected GoV agencies and funding for other priority capacity development activities will continue through and beyond this nine month period, for a total of 15 months (to end April 2013). In Stage Two of the Partnership it is likely that the three components would remain valid³, but activities within them will be detailed in the inception plan developed and approved during Stage One.

The next phase of cooperation will involve a shift towards greater GoV leadership in Partnership governance and management processes, within a jointly agreed set of arrangements. A Managing Contractor will be responsible for all aspects of support to the GoV-GoA Partnership, including through facilitating recruitment and support for TA personnel, secretariat services to governance and management processes and coordination/monitoring of activities under each of the three components.

³ GoA and GoV will need to determine whether this is still the case.

1. Introduction

This document describes the fourth phase of collaboration between the Governments of Vanuatu and Australia in the law and justice sector. The third phase of the current program - the Vanuatu Legal Sector Strengthening Program (VLSSP) - will end in June 2011. The current phase of the Vanuatu Police Force Capacity Building Program (VPFCBP) will end in December 2012. Collaboration between GoV and GoA in the law and justice sector has developed and matured over the last decade and has made a significant contribution to some key elements of Vanuatu's national development. Collaboration remains important for both the Governments of Vanuatu and Australia because of a shared understanding about the critical nature of a functioning sector for Vanuatu's development, stability and security.

The GoA-GoV Partnership for Development was first signed in May 2009. At the June 2010 Government of Vanuatu and Government of Australia preliminary partnership talks, both Governments agreed to include law and justice as a new priority outcome. The "Partnership Priority Outcome Statement: improved services in law and justice" is currently being finalised between GoV and GoA. This will include Joint Commitments and Target Results. The process of developing the Outcome Statement for this sector is clearly very important for future collaboration and needs to be taken into account throughout the preparation for the next phase and during implementation.

The GoV has recently developed its first Law and Justice Sector Strategy and Action Plan, which covers the period 2009 to 2014. This document provides an excellent framework for the next phase of collaboration. Australian support is expected to contribute to the process of implementation.

This Partnership Design Document (PDD) includes analysis of the context, identified priorities and lessons learned, principles for cooperation, approaches, objectives, activities, governance and management structures and other elements which reflect shared GoV and GoA understanding about collaborative work over the next four years. The document incorporates approaches which are consistent with contemporary thinking about aid effectiveness and capacity development as well as lessons learned nationally, regionally and globally about work in this sector.

1.1 *Design Development Process*

Following consultations in March 2010, a Concept Paper was drafted outlining key issues and questions. The Concept Paper was appraised and approved using AusAID's quality system in May 2010. From 3 to 18 June 2010, a small design team⁴ undertook consultations in Canberra with WoG agencies and in Vanuatu with a wide range of stakeholders⁵. Meetings with donor representatives in the sector, including New Zealand Aid Program (NZAP), World Bank and the European Union were included. A

4 Team Leader, Deborah Rhodes and Legal Specialist, Sally Low, supported by Linda Gellard (First Secretary, Law and Justice, AusAID) and Obed Timakata (Program Officer, AusAID)

5 It is important to note that not all GoV legal sector agency representatives were available for consultations during this period.

phone call to the AusAID Suva Post provided important up to date information about current funding arrangements for Pacific regional activities. A meeting of 20 stakeholders in Port Vila on 18 June provided the opportunity for discussion and feedback on the overall approaches proposed.

During the design process, the GoV convened a sector wide meeting of all agencies to determine an agreed list of priorities within the Strategy and Action Plan for 2009-2014. This meeting confirmed GoV's request for continuity in program activities in the short-term and AusAID extended VLSSP to 30 June 2011. Clear decision-making by senior GoV officials significantly assisted the design process, and provided an appropriate basis for this document. The components included in this Program are a response to GoV requests and therefore reflect a shared commitment to the next phase of cooperation.

Several meetings with the Minister for Justice, in March and June 2010, and again in 2011 including at the Partnership for Development Talks, were opportunities to discuss GoV's priorities and expectations in relation to collaboration with Australia and other development partners. The person in the role of Director General for the Ministry of Justice and Community Services (MoJCS) changed during the design process, and both leaders contributed to agenda-setting for this Program. The new incumbent, Ms Dorosday Kenneth, has demonstrated a clear commitment to ongoing collaboration in the sector with Australia.

Annex 14 includes a list of people met during the design process (this complements the list of people met during the Concept Paper process – duplication was avoided where appropriate).

2. Activity origin

GoV and GoA collaboration in this sector through VLSSP commenced in 2000 at a time when legal offices were unable to meet basic demand for legal services and there were significant financial risks to the GoV due to their vulnerability to substantial litigation. A modest and targeted program of collaboration has developed over the decade, building on existing capacity, incorporating lessons learned over time and responding to emerging priorities and issues. The partnership in this sector is now mature, well-regarded and well-targeted and relationships are generally robust, despite a range of challenges and sensitivities that have been faced. The Mid-Term Review as well as anecdotal evidence collected during the design process indicated that GoV is in a considerably stronger position to manage its own agencies successfully in 2010 and the agencies are in much better shape than they were in 2000, but there are a number of issues which justify ongoing cooperation in this sector (see Section 3 below).

GoV has clearly prioritized Australian assistance to the sector, identifying the contribution that the program makes to national development as one of several reasons for continued support. Support to the sector, modest and well-targeted, has contributed to and is expected to continue to contribute to improved governance through the development of appropriate legislation and policies and the strengthening of national institutions involved in the delivery of legal services both to the GoV and the public.

The VPFCBP has also contributed in a wide variety of areas to the capacity of VPF since 2006. The current phase of this Program, VAPP that is being implemented by AFP, is due to end in December 2012.

At the time of the design of the next phase of cooperation, there is a new shared commitment to strengthened coordination mechanisms within GoA agencies, expressed through the Framework for Law and Justice Engagement with the Pacific. This document provides some ways of building these mechanisms, and more defined and more complete coordination is envisaged by the end of 2011.

3. Activity rationale

Overall GoA and GoV collaboration in the law and justice sector is based on the following rationale:

- GoV considers the law and justice sector to be important to the achievement of all of its national development priorities, citing that law and justice sector agencies need to play an effective role “in the process of governance, and growth and also in providing effective services to the people and the Nation” (page 1 of Vanuatu Law and Justice Sector Strategy and Action Plan). The GoV also identifies the sector as encompassing all aspects of community and society such that the system “enables equal rights and access of justice for all” (page 6)
- GoA is committed to support achievement by GoV of selected development objectives, including those in the law and justice sector, as documented in the Partnership for Development statement
- Australia’s recently produced “Framework for Law and Justice Engagement with the Pacific” affirms a commitment “to helping Pacific countries strengthen the rule of law and protect human rights” and notes “effective law and justice systems promote regional security, increase international confidence and help attract foreign investment” (page 1)
- Australia’s substantial economic relationships with Vanuatu, including in the areas of financial services, property development and tourism, are more likely to succeed when there is provision of quality service delivery relating to community safety, law enforcement, judiciary etc. and a stable socio-political environment
- Australia has made a generally well-regarded⁶ and appropriate contribution to the sector and a long-term engagement is essential for sustained capacity development
 - It is particularly important to build on strengths of previous phases, including strengthening of systems and capacity of offices (including organisational development and corporate governance), contributions to policy and strategy development

A fair and functioning law and justice sector, including an effective police force, is regarded as critical for national and community stability and is thereby linked to economic and social development. The law

⁶ GoV and the Vanuatu judiciary regard the contribution highly for a number of diverse reasons, depending on the particular agency and priorities encountered over the past 10 years. While there are now fewer vacancies in public sector agencies than before, there are still insufficient numbers of experienced lawyers. Some stakeholders also refer to the value of policy support, provision of specific legislative advice and significant savings to GoV through high quality defence against private sector legal cases.

and justice sector in Vanuatu, as is the case in any country, is complex, covering multiple agencies, ideas and relationships. Its relationships with other sectors are also diverse, depending on political, social, cultural and other factors. Legal issues affecting relationships between government, private sector and civil society agencies are complex, with the potential for laws to be used by one group against another in a myriad of ways. For example, the private sector in Vanuatu has a history of litigation against the Government which, if not well-handled, could have a significantly detrimental effect on the nation's economy.

The efficiency and effectiveness of law and justice systems and access to legal services are particularly challenging in unstable environments and in any context where there is incongruity between the values under-pinning the respective legal systems. While Vanuatu is regarded as more stable than other Melanesian countries⁷, there remains some risk to investment which has a significant impact on development prospects. In Vanuatu there are also sometimes uncertainties arising from incongruity between community and public sector values which affect access to justice and community harmony i.e. Vanuatu cultural values are focused primarily on maintaining harmony at village level whereas formal state-based legal systems are primarily based on punitive justice.

An effective law and justice sector provides a critical base for economic and social development and is linked to national and community stability. For example in the Vanuatu context, legal certainty is a critical element in ongoing commercial activity which contributes to economic growth and is also highly relevant to community harmony in urban settings where traditional land use approaches do not easily apply. Legal certainty over land use is particularly crucial to all aspects of economic and social development in Vanuatu and land use legislation, policy and processes are therefore fundamentally important. While a poorly performing law and justice sector can have catastrophic implications, and out of date legislation can be highly inefficient and frustrating, it is not feasible to identify the minimum elements required to avoid problems for every context, as specific local circumstances will prevail. The specific circumstances (e.g. political, historical, socio-cultural, economic and financial) in Vanuatu will merge and influence any vision for an appropriate, affordable and effective sector. The rationale for collaborative work in this sector has three elements: stability and security are key elements in the enabling environment for economic growth and social development; law and justice services are delivered by a series of actors that need to work together, whether in the state or community-based systems; and GoV policy now requires a sector approach. This means that a holistic, system-wide response to law and justice is appropriate, even though the GoA (and other external) contribution to this broader response may be limited.

Ongoing support for GoV in this sector is appropriate given emerging GoV leadership across the whole sector and the scope for support to enable the GoV to achieve an affordable, coordinated, well-planned, appropriately managed and accessible law and justice sector. With VLSSP support, GoV recently developed its first Law and Justice Sector Strategy and Action Plan for 2009-2014, and this provides an

⁷ Personal observation of author

excellent starting point for the next phase of cooperation. At the time of the design process, GoV is in the process of adding more details to the comprehensive Strategy and Plan and defining priorities for discussion with development partners, but it is clear that medium-term support for this new way of working will be appropriate, so that long-term objectives can be achieved independently. A sectoral approach will increase opportunities for more efficient resource allocation, coordination and synergy between complementary elements.

4. Context

4.1 *Vanuatu Law and Justice Sector*⁸

The Vanuatu law and justice sector is healthy and there is evidence of good capacity development occurring in the sector in the past decade. The Ministry of Justice and Community Service's Annual Report for 2009 highlighted a number of activities and achievements against the new Strategy and Action Plan. It also noted ongoing challenges and opportunities for the sector including those related to: leadership; role of chiefs, custom and human rights; human resources and capacity; provincial service delivery; partnerships with CSOs; legislation and law reform; treaties and conventions; support for victims and offender re-integration. The report highlighted the following priorities for 2010 and 2011:

- Better coordination and strengthening of sector plan activities
- Human resources and capacity
- Provincial Service Delivery
- Legislation and international conventions
- Support victims of crime

Features of the current situation in the sector include:

- Co-existence of multiple systems – simplified as *kastom* and formal, with little official guidance (policy or legislation) defining and supporting interaction between the two (see definitions in 4.1.1 below and Annex 1)
 - The formal justice sector is urban based and has limitations in its reach to the dispersed rural population (the majority, around 80%, live in rural villages)
 - There is a strong dependence on *kastom* law by the rural majority but great diversity and inconsistency in understanding, usefulness, efficiency, application, quality and value of *kastom* laws
 - Lack of clarity from GoV about the role of *kastom* law in the sector and the interface between *kastom* and formal justice systems and some interest in the opportunity to build understanding and maximize benefits for all people from the dual system

⁸ Annex 1 provides a detailed description of the Sector and this section provides a short summary only

- A large number of relatively small organisations (both Government and non-Government) in the sector (see 4.1.2 below), many of which are statutory or constitutional bodies
 - In 2010 a Vanuatu Law Reform Commission is emerging as a new organisation and support for its establishment and initial work in prioritizing legislative reform is appropriate
- Capacity within agencies in the sector is strengthening and there is commitment to organisational development and to collaboration with others to enhance this capacity
 - Most public sector agencies have insufficiently experienced legal officers to deal with complex cases, with the majority having less than 5 years experience (see 4.1.3 below)
 - There is scope to contribute towards capacity development of these agencies more broadly and efficiently
 - There is a lack of experience and expertise in policy development and the link between policy and legislative development in legal agencies
- Newly developed GoV leadership in sectoral coordination and collaboration (see 4.1.4 below)

Annex 1 provides a detailed analysis of the sector. The following key points summarise this analysis.

4.1.1 Two main systems

A definition of terms is important in this discussion. The terminology offered by Dinnen⁹ is helpful:

- *Formal justice systems*: state law and its principal institutions of law and justice (e.g. police, courts, and prisons).
- *Traditional justice systems*: non-state justice systems which have existed, subject to continuous evolution, since pre-colonial times.
- *Informal justice systems*: refers to any non-state justice system. Includes ‘traditional’ justice mechanisms but may also include community committees, NGOs, churches etc.
- *Hybrid justice systems*: systems that involve a combination of state and non-state elements (e.g. Local Courts)

Defining what informal justice comprises is a complex task, not only at a conceptual level but because of the diversity in the ways that justice is viewed and practiced throughout Vanuatu. Many cultural, gender equity, historical, political and social factors influence the views of ni-Vanuatu about traditional justice, and there are few common perspectives on what is appropriate. Chiefs and other community leaders (usually men) see their roles in different ways; many emphasise the process of maintaining harmony through a focus on restorative or reconciliatory approaches, which may be seen to contrast with the formal justice systems’ focus on punitive approaches, or indeed, in some cases at the expense

⁹ Interfaces between formal and informal justice systems to strengthen access to justice by disadvantaged people, Sinclair Dinnen, ANU, November 2003

of human rights¹⁰. Where people are able to access elements of the formal justice system, there is an opportunity for them to “shop” for a preferred method of dealing with an issue within either or both systems. This sometimes results in confusion, inconsistency, ineffective handling of issues and inefficiency in the allocation of resources. Communities and their leaders are seeking greater clarity in the respective roles of both formal and traditional systems and the interface between them. Some women are also seeking greater access to both formal and informal justice systems, and of course, this requires much broader cultural changes than simply “increasing access.”

The current law and justice context in Vanuatu is characterised by an urban focus on Western-style formal justice institutions and a rural focus on informal or *kastom* governance arrangements to maintain harmony through settlement of disputes. The values underpinning these two systems are vastly different and the interface between the two diverse systems is neither legislated for nor consistently understood and practised. A broad view of the sector includes *kastom* and community-based justice systems. In particular, these systems include the role of traditional and community leaders in preventing crime, settling conflicts and maintaining harmony at community levels, particularly in villages, where between 70% and 80% of people live. The roles of chiefs in settling land disputes for example is significant, and recent activities¹¹ to test the efficacy of chief’s involvement in various village based law and justice systems suggests there is potential for increased use of this approach.

Currently there is little documentation about the roles of chiefs and other community leaders in maintaining harmony and thus avoiding or reducing engagement by community members in crimes and conflicts and the formal justice system. A number of existing aid programs recognize the critical role of traditional values and systems in governance and community development, particularly NZAP’s Corrections Program and AusAID’s *Kastom* Governance Partnership. Increased donor understanding and recognition of this issue is likely to assist the achievement of GoV objectives in this sector in Vanuatu.

4.1.2 Multiple small agencies

The Ministry of Justice and Community Services, itself with only two professional staff, is responsible for or encompasses around 15 Departments and offices, many of which are statutory and constitutional bodies. The Ministry of Internal Affairs has a large portfolio covering cabinet support, decentralization, security, border control, national services and governance issues, and this includes police services. Many agencies in the sector have their own legislation and until recently reported directly to the Prime Minister's Office (i.e. prior to the establishment of MoJCS). They operate with varying degrees of independence which raises some challenges for MoJCS. The State Law Office (SLO) reports to the Prime Minister’s Office rather than MoJCS, so this has implications for sectoral coordination and any

¹⁰ In the case of sexual violence against women, the family may accept compensation on her behalf as a means of maintaining harmony. This may indeed restore community harmony but may not meet the individual needs of the women for justice and protection.

¹¹ For example, mention was made of a small pilot by Malvatumauri in Pentecost where chiefs have been supported to monitor and supervise ex-prison detainees after their return from prison in the interests of saving funds associated with travel for urban-based probation officers.

governance mechanisms. The agencies are diverse in focus – e.g. some are focused on Government, some provide services to the public; some are predominantly service deliverers while others develop policies; some are focused largely in Port Vila while others are more national and decentralized in focus. The agencies are diverse in capacity – e.g. some have full staff complements and strong leaders while others experience high staff turnover and frequently suffer from poor or absent leadership, some have extensive regional networks and others are highly independent. Vanuatu has a small population to draw upon for expertise in the sector (the total population is estimated to be just over 250,000 in 2010), with only five to six ni-Vanuatu law graduates per year from USP.¹² This affects the potential capacity of the sector.

Since independence, the Vanuatu formal justice system has continued as a traditional common law justice system styled on the British model but incorporating legislation from both the French and British colonial administrations. Currently the key agencies in the system¹³ include:

- Judiciary (e.g. Supreme Court, Magistrate’s Courts, Island Courts)
- Vanuatu Police Force
- Ministry of Justice and Community Services
- Ministry of Internal Affairs (responsible for police services)
- State Law Office
- Public Prosecutor’s Office
- Public Solicitor’s Office
- Department of Correctional Services

Within the public sector, there are complex, conflicting and powerful webs of incentives and disincentives that drive decision-making, particularly at the political level but also amongst senior managers in the public sector. These are difficult for foreigners to understand but are relevant to perceptions of leadership, opportunities for alignment, risk taking, public sector reform and capacity development, so need to be factored into activity designs and approaches. For example, administrative and management arrangements for legal offices are not overseen by the Public Service Commission and this has implications for their leadership and management, including staff conditions and performance issues.

¹² This number is from 2007-09. The poor quality of recent law graduates from USP has been identified by many as a critical issue. USP advised that the number of ni-Vanuatu law graduates is dictated by the number sponsored by the Vanuatu Government and others and the inadequacy of pre-tertiary education affects the quality of graduates but they are of the firm view that the quality of legal graduates has improved in recent years USP does however acknowledge that trends in national and international laws, particularly across the 12 nations the university services, warrants a review of the LLB and post graduate pre-admission training (i.e. Professional Diploma in Legal Practice) and this is scheduled to occur in March 2011.

¹³ The Vanuatu Law Reform Commission is likely to be operational in 2010-11.

A range of non-government actors is involved in law and justice service delivery such as legal aid and victim support services. For the law and justice system to work well, each agency must perform their roles professionally and effectively and in a coordinated, coherent manner.

A recent survey identified over 45 government offices, NGOs, civil society organisations and faith based organisations as possible stakeholders in the area of access to justice.¹⁴ Several organisations, including the University of South Pacific Community Legal Centre¹⁵, the Vanuatu Women's Centre, the Advocacy and Legal Advice Centre, focus specifically on legal service delivery.

Others such as Save the Children, the Vanuatu Family Health Association, the Disability Promotion and Advocacy Association of Vanuatu, the Foundation for the Peoples of the South Pacific, Live and Learn Vanuatu, Transparency Vanuatu, UNICEF, the Vanuatu Council of Churches, the Vanuatu Society of Disabled People and the Vanuatu National Children's Council incorporate activities relevant to the law and justice sector within their broader programs. This is not an exhaustive list but gives some indication of the range of stakeholders that must be considered for effective sector wide coordination.

4.1.3 Emerging capacity

The small size of formal sector agencies and the limited resources at national levels to develop policy and legal frameworks related to the interface between *kastom* and formal systems means that there will always be a risk to smooth and quality service delivery at various levels. The newly created Law Reform Commission will have a major task in identifying which of a wide range of out of date legislation needs to be updated and in implementing the legislative drafting and reform process. In the justice agencies where support has been provided to date under VLSSP, stakeholders perceive they can largely meet demand with limited external support¹⁶, however, there is frequently a sense of vulnerability when staff are absent, unable to tackle serious or complex cases or attracted to work elsewhere, and when leaders are new, inexperienced or unable to meet the diverse demands of the role. This vulnerability can be dramatically reduced with a relatively small donor contribution in the form of personnel support and other professional and organisational development support. The situation of other agencies, which have not participated in previous programs, has not been systematically assessed, but there is certainly interest among them in attracting support to bolster their capacity¹⁷. Thus strategic and modest efforts

¹⁴ Report on Survey of Awareness Materials in the Vanuatu Legal and Social Justice Sector, prepared by VLSSP 2010.

¹⁵ USP has added an 'Advocacy' unit to its LLB as an elective and in 2002 the unit 'Law Clinic' was introduced along with the establishment of the Community Legal Centre. Law Clinic affords a number of USP students every semester, an opportunity to practically apply, in the context of a fully functional law firm, the training provided in the units 'Civil Procedure' and 'Legal Drafting' and other LLB units. The success of Law Clinic has been recognised within Vanuatu.

¹⁶ According to perceptions of current advisers and other stakeholders in the sector, who are largely experienced in Port Vila agencies. It is unclear about the situation outside Port Vila.

¹⁷ Several agencies, particularly the Department of Women's Affairs, sought specific assistance during the design process

to support GoV agencies at national and central levels can be highly fruitful in terms of good governance, quality service delivery and community harmony. In the long term, GoV efforts to allocate its own resources across the sector will make the most important contribution to sustainable benefits.

4.1.4 Law and Justice Sector Strategy and Action Plan

The first *Vanuatu Law and Justice Sector Strategy and Action Plan (2009-2014)* was developed in late 2009, with funding support from VLSSP. The Plan is comprehensive and ambitious and represents the shared views of representatives from the variety of Government agencies and other organisations in the sector. It is the first time that a Plan across the whole sector has been prepared. During the in-country visit associated with this design, GoV convened a meeting of heads of sector agencies (11 June 2010), to prioritise elements of the Action Plan and in part, to inform the design process (see below). This meeting was evidence of “ownership” of the Strategy by all GoV and other sector stakeholders, including representatives from the National Council of Chiefs, the Vanuatu Women’s Centre and the Vanuatu Christian Council. It also reflects clear stakeholder commitment to GoV-led development of the sector and the desire to provide a clear and coherent message to development partners.

The Plan represents good initial collaboration and sector-wide energy and is likely to guide activities for the next few years. The Plan identifies seven pillars of law justice and social welfare:

1. Police and Community Safety
2. Access to Justice for All
3. Correctional Services
4. Anti Corruption and Good Governance
5. Harmonious and Safe Society
6. Service Delivery
7. Judiciary: Administration of Justice

These seven pillars are underpinned by the cross-cutting principles of: custom and tradition; moral and spiritual values and human rights. Within the Pillars, objectives and strategies are identified. Finally, the Plan includes details of actions, responsibilities, dates and results indicators. The document proposes a Sector Coordination and Planning Model and a number of mechanisms to coordinate decision-making and planning across the sector, particularly an Agency Heads Group. During the latter half of 2010, this Group commenced the processes of addressing the critical issues associated with costing the plan and accessing ongoing GoV and other resources for its implementation. The processes are likely to continue during 2011 and MoJCS has indicated it may seek support for them from this Partnership (see Section 6).

4.2 Australian cooperation in the sector

This section summarises key elements of Australia’s experience and contributions to the sector and lessons learned. A detailed analysis of achievements of VLSSP is included as part of Annex 2.

The variety of agencies involved in the sector means that AusAID needs the capacity to broker and support the coordination of engagement by other GoA partners. This coordination is critical to maximise benefits to Vanuatu and reduce the likelihood of duplication, contradictory messages and inefficiency associated with multiple agencies operating in a small context.

From an Australian Government perspective, work in the law and justice sector in Vanuatu sits within the new “Australia’s Framework for Law and Justice Engagement with the Pacific” which was launched in Canberra during the design process (June 2010). This Framework refers to Australian assistance to Pacific countries “to build capacity and effectiveness of police, public prosecutors and defenders, ombudsmen, law officers, correctional services and judiciary.” The Framework highlights the need for improved coordination of Australian efforts in the region and confirms a focus on “strengthening law and justice systems, improving public administration and governance, and eliminating violence against women.” In addition to the promotion of a coordinated approach to assistance, the Framework also highlights the needs for: working effectively on short, medium and long-term outcomes; collaborative approaches; an emphasis on sustainability of results and benefits; and an emphasis on building local capacity at various levels; and a commitment to effective planning, monitoring and predictable financing. These directions have informed and are consistent with elements of this Partnership design.

The draft GoA-GoV Partnership for Development document includes the following joint commitments for this sector:

“The Partnership will support the Government of Vanuatu Law and Justice Sector Strategy and Action Plan 2009-2014, through:

- Enhancing access to, and quality of, legal services to the government of Vanuatu and citizens in urban and rural communities, and strengthening links between the formal justice sector and customary law
- Improving coordination of the law and justice sector
- Improving delivery of police services through providing a safer and more secure environment for the community by the prevention and detection of crime through strong police/community relations
- Improving planning, budgeting, financial management, and human resource management
- Strengthening monitoring and reporting across the sector”

The above draft framework and joint commitments provide the context in which this sector Partnership is designed and will be implemented.

This program is intended to complement work already ongoing across the Vanuatu program in improving the functioning of Government of Vanuatu system and processes. Through the Governance for Growth program, AusAID has been able to successfully support Vanuatu’s efforts to improve public financial management, including the budget process. Specific capacity building activities through this program, together with other GoA assistance to the VPF, will target improved planning and budgeting in the law and justice sector Government of Vanuatu legal offices. It is also intended to improve the

accountability of GoV institutions within the sector these legal offices through strengthening Vanuatu's own systems for reporting against results.

4.2.1 VLSSP

The current Legal Sector Program comprises a mix of capacity development inputs (ranging from funding for local and Australian training programs to funding for office refurbishment and equipment) and placement of personnel, who undertake a mix of advisory and in-line roles. The mix of inputs varies each year depending on discussions between various law and justice agencies and the Team Leader, and approval by AusAID¹⁸.

The placement of five long-term technical assistance (TA) personnel¹⁹ in four agencies in Port Vila²⁰ is the most prominent contribution and this has remained relatively constant, although the placement of an adviser in the State Prosecutions Department commenced only recently, in 2009. A Team Leader has worked on the Program since 2003, initially from Sydney and since 2006 in-country. She has been responsible for coordinating all VLSSP activities, including a range of training and organisational development activities, as well as support for policy development and systems improvement, strategic planning and legal policy issues.

A number of other capacity development and training activities, including annual attendance by ni-Vanuatu lawyers at the Victorian Bar Readers' Course, regular placements in NSW Government legal offices and a range of in-country organisational development courses have also been funded. These activities have been targeted to suit partner agencies and provided valuable opportunities for relationship building, as well as learning and incentives for lawyers, including those with relatively less experience. A noteworthy achievement of one of the legal specialists was the production of a Civil Court Practice handbook, the only one of its kind in the Pacific and widely used by lawyers in Vanuatu²¹.

¹⁸ In addition to planned funding through VLSSP, AusAID has also contributed in other ways to the sector. For example, until late 2010, AusAID provided funding towards the salary of the Attorney General on the basis that it would contribute to attracting a suitably qualified ni-Vanuatu professional from the private sector. AusAID has determined that this will not continue beyond the end of the current agreement because of issues associated with the process, accountability and performance.

¹⁹ The majority of TA personnel have been in Vanuatu in excess of 3 years and their contracts were due to end at the end of 2010.

²⁰ Two in the State Law Office and one each in the Public Prosecutor's Office, the Public Solicitor's Office and the State (Police) Prosecutions Office

²¹ To ensure this contribution remains useful, regular updating is required. The Partnership may be a source of support for a number of years, but in the longer term, local sources will be preferred – for example through the emerging Vanuatu Law Society.

Support through USP has included a contribution to the Community Legal Centre of USP²², which provides legal services to Vanuatu citizens. Funding for this valuable service should be continued, with details to be negotiated during Stage One, but should be expected to be at current levels along with continued internal USP funding for this elective law course.

VLSSP has collaborated with USP on its Legal Literacy Program (LLP). USP's LLP promotes access to justice through production of a wide range of brochures printed in English, French and Bislama, about legal rights and responsibilities, and supports activities such as 'Law Club' in which USP's Legal Literacy Co-ordinator attends local schools and speak about aspects of the law. In 2009 USP conducted Law Week activities on Efate, Tanna and Santo (with support from VLSSP).

Throughout the history of the VLSSP the program has also used the USP law facility as one means of providing Continuing Legal Education (CLE) to the entire profession. Under this new partnership there is a provisional allocation for CLE²³, however the mechanism/implementing body for CLE is yet to be determined. All key stakeholders such as GoV, the Vanuatu Law Society and the USP will be assisted to identify appropriate and sustainable frameworks for such programs to be implemented.

Among a number of infrastructure activities, in 2010, AusAID, through VLSSP, agreed to funding (Vt20 million or AUD240,000) for the construction of a moot court at the USP. The court is envisaged as a training facility in advocacy techniques - construction was completed in 2010.

After ten years of bilateral cooperation in the sector, including several shifts in direction, relationships between Australia and Vanuatu in the sector are generally mature. There is some anxiety about the role of aid-funded legal officials in high-profile cases, particularly those relating to Australians and ni-Vanuatu leaders and private sector/commercial interests. This relates largely to the fact that the Australian personnel placed in the respective GoV legal offices are practising lawyers undertaking direct legal work, with varying degrees of hands-on involvement, depending on emerging policy priorities from

²² The University of the South Pacific Community Legal Centre ('the CLC') has operated since July, 2002. The CLC initially operated from a small office in downtown Port Vila, later moved to a cottage on the University Campus and now occupies part of the new Moot Court building - which is equipped with interview and mediation facilities. The CLC has been advising and representing clients predominantly from the Port Vila community. Clients receive advice from final year LLB students under the supervision of an experienced legal practitioner who member of the School of Law staff and who has been admitted to practice in Vanuatu. The operation of the CLC serves a dual purpose. It services members of a community who have little access to legal advice or to the justice system, and it provides an opportunity for students in their final year to learn professional legal skills and ethics at a high level in a real practice environment.

²³ In the longer-term it is not unreasonable for practitioners/attendees to be required to make a more substantial contribution to the cost of CLE activities.

AusAID. This issue requires ongoing risk management and negotiation by all parties, which initially may be led by GoA²⁴, but increasingly should be led by GoV.

In terms of achievements over the past decade, contributions have been made to increasing capacity and the quality of service delivery in the agencies which are involved in the Program, largely through the placement of highly experienced long-term personnel in Port Vila. These personnel have divided their time between direct legal work and advisory/capacity development (indirect) work, and have experienced shifting advice from AusAID over time based on differing perspectives on an appropriate balance between two kinds of work. The current situation appears to work well for both sides, whereby advisory work is prioritized with exceptions made in the cases of complex cases and in the absence of ni-Vanuatu lawyers. The Team Leader currently monitors the balance in each office and has developed clear criteria to guide decisions about particular tasks. While it could be argued that the agencies involved in the Legal Sector Program are still vulnerable to the risk of declining capacity, given their small size, staff turn-over and tentative leadership in some areas, these factors are largely a reflection of the Vanuatu environment and cannot necessarily be overcome through external aid inputs. However, there are opportunities for aid inputs to assist GoV to develop a strategy to address these issues in the long-term, particularly for example, through consideration of legal training options for ni-Vanuatu lawyers.

The presence of highly skilled external legal specialists has occasionally been problematic in the small Port Vila setting, including to the Australian High Commission. Advisers' responsibilities should be primarily development oriented, but there have been perceptions by others that their legal expertise can be used for a range of ad-hoc diplomatic, political and other legal purposes. This has been challenging for both sides, particularly in high profile and controversial cases. Ni-Vanuatu legal officials and litigants who face aid-funded legal officers in court have raised issues which reflect questions about Australia's aid program on occasion²⁵.

The Mid-Term Review (MTR) of VLSSP (see Annex 12) noted that the Program's work has largely focused on GoV agencies in Port Vila and has not reached the rural majority. While some support has been provided to the running of Circuit Courts, they are perceived as expensive and are sometimes poorly coordinated. Information about the current state of services indicates that quality and provision of services is uneven. For example, in Santo, while there are two lawyers based in the Public Solicitor's Office, there is no-one in the Public Prosecutor's Office. In Malekula there is a Magistrate but no lawyers while in Ambae there is a Prosecutor but no-one else.

²⁴ For example, public liability insurance for legal advisers in *Stretem Rod Blong Jastis* is costed as a contribution by the Partnership, but in the long term should be covered by GoV, if GoV wishes to use lawyers directly in legal cases.

²⁵ A recent review of the PNG Development Cooperation Treaty raised some important issues about adviser effectiveness, salary supplementation etc which are relevant to this context too.

The 2008 MTR recommended a re-structuring of the Program into three streams, based on its perception that the Program should evolve into a more strategic engagement with the sector as a whole, using more programmatic forms of assistance. The three streams included:

- targeted advisory support for three (now four) public legal offices
- MoJCS managed organisational development
- Cross-sector and thematic initiatives

This approach appears to have been well received by GoV and is working effectively up to 2010.

4.2.2 Vanuatu Police Force Capacity Building Program (VPFCBP)

Australia's cooperation with the Vanuatu Police Force, managed by the Australian Federal Police, is substantial and high profile. The program currently funds seven full time advisers, several short-term personnel and direct funding for infrastructure, equipment, training and other activities.

VPFCBP provided capacity building inputs in the form of on the job training and mentoring. Examples of achievements include improvements to the VPF human resource and financial management systems and the introduction of an electronic case management system. The new phase of the program has been designed and every effort will be made to increase coordination efforts where appropriate with the broader sectoral context on both GoV and GoA sides. There is considerable scope for collaboration between the VAPP and the *Stretem Rod Blong Jastis* Partnership. The VPF is a major stakeholder in the law and justice sector and support for the implementation of the Law and Justice Sector Strategy by the Ministry of Internal Affairs and participation of the Police Commissioner in the Heads of Agencies group will be crucial to the success of the strategy. The two Australian programs need to be able to facilitate that process by ensuring relevant GoV officers are kept informed of the process.

Synergies can potentially be built to facilitate more coherent administration of the State (Police) Prosecutor's Office and better liaison between police and the PPO in general. The VPF has a vital role in the implementation of the Family Protection Act that is not limited to the VPF Family Protection Unit. The two Australian programs can potentially complement NZ assistance in this area by supporting better liaison and dialogue between VPF, other legal sector agencies and involved NGOs such as the Vanuatu Women's Centre. Members of the AFP advisory team have noted that there had already been effective collaboration between the two programs, e.g. in facilitating police dialogue with NGOs.

The *Stretem Rod Blong Jastis* Partnership and the VAPP have considerable potential to operate under a joint governance structure. A suggested structure is outlined in Annex Nine. Previous attempts at joint management were resisted by the GoV, at a different time of GoV leadership, but there are now good indications the approach will be regarded positively.

Greater coordination between the VAPP and the *Stretem Rod Blong Jastis* Partnership will assist GoV to achieve its objectives for the sector, and needs to be handled sensitively and closely monitored. Coordination could include a single governance structure and shared approaches to institutional capacity development and legal issues, as well as shared commitment to support GoV sectoral

leadership and coordination. There are sensitivities in Vanuatu associated with joint governance across the sector which includes police services and therefore donor support should be carefully considered.

4.2.3 Other bilateral activities

In addition to the VAPP, Australian funding is provided for a range of other aid activities which have relevance to law and justice issues. This includes funding for the *Kastom* Governance Partnership, Wan Smolbag Partnership, Lands Program, Vanuatu Women's Centre and Vanuatu Churches Partnership.

The *Kastom* Governance Partnership aims to contribute in the long term to the goal of strengthened national and community governance in Vanuatu. It contributes to this goal through strengthening and extending the contribution of *kastom* leadership to change and development processes, with particular focus on the prevention of conflict, community governance and community development. The Partnership includes four elements:

- research on the value of *kastom* governance systems, their contribution to national and community governance and their interaction with introduced systems and values, and on associated models of community governance
- workshops/dialogue (called *storians* in the Vanuatu context and in the rest of this document) which provide the opportunity for discussions among community leaders on the contribution of *kastom* leadership to change and development processes and to conflict prevention, for information sharing, skills development and problem solving in a variety of leadership and governance issues, including the role of women
- provision of support for community leaders and Councils of Chiefs to enable them to build linkages with other organisations and obtain assistance to implement their action plans
- provision of facilities for the Malvatumauri VNCC and support for building stronger management and office administration skills in the Secretariats for the National and Island Councils of Chiefs.

The Malvatumauri participates in the Law and Justice Sector Strategy and the Heads of Agencies group. There is considerable scope for collaboration between the *Stretem Rod blong Jastis* and *Kastom* Governance programs. Examples of potential collaboration include: joint research on *kastom* law issues and the interface with formal law systems; shared efforts to build support for and understanding of the Family Protection Act through the *storians*.

Given the centrality of land disputes and violence against women in the Vanuatu legal sector, the critical role of *kastom* governance and churches in settling disputes across the nation, and the connection between youth disenfranchisement and the legal sector, the need for coordination across these activities is important. GoV recognises the roles of all these organisations and activities in the law and justice sector. Annex 5 provides details.

Lawyers working on VLSSP have regularly been asked by other AusAID-supported programs and by AusAID staff for specific legal advice, outside the law and justice sector. In the next phase, GoV needs to give the Partnership guidance on whether this should continue and Partnership personnel should comply with this guidance.

4.2.4 Pacific regional activities

Australia also supports various regional activities relevant to Vanuatu's law and justice sector. Annex 5 includes details of these activities. The list includes:

- Jastis Blong Evriwan (JBE) Program
- Pacific Judicial Development Program
- Regional Rights Resource Team
- Pacific Islands Law Information Institute (PacLII)²⁶
- Pacific Ombudsmen's Alliance

In addition to these programs, funded by AusAID, the Pacific Police Development Program (PPDP) is a major source of regional funding in the sector through AFP and Australian Attorney General's Department. PPDP is aimed at improving the effectiveness of policing in Pacific Island Forum countries through police training, capacity-building, strategic planning, improved human resources and recruitment. It also includes support for strengthening criminal law and police legislation.

Many Pacific Governments, including GoV, are committed to the achievement of human rights objectives related to women, children, people with disability and the prevention of torture. The Pacific Island Forum leaders are committed to "eradicate sexual and gender-based violence and to ensure all individuals have equal protection of the law and equal access to justice" (Final communiqué of 40th PIF meeting in Cairns 2009) for example. Both Australia and New Zealand are committed to supporting these efforts in various ways at regional and national levels. For example, New Zealand funds an ongoing Pacific Prevention of Domestic Violence Program and Australia has recently developed a regional policy on the prevention of violence against women and. In 2008, the Australian Office of Development Effectiveness produced a report entitled Violence against Women in Melanesia and East Timor: Building on Global and Regional Promising Approaches. In response, another paper entitled Stop Violence: Responding to violence against women in Melanesia and East Timor (2009) was commissioned, which sets out Australia's priorities and actions to prevent and reduce violence against women in Melanesia and East Timor. These reports include a long list of recommendations, which support Pacific Governments' efforts. The latter report includes a framework for action which includes three main strategies for responding to violence against women:

- ensuring women have access to justice
- ensuring women have access to support services
- preventing violence against women.

The first strategy includes the following priorities:

- passing and implementing laws and policies that discourage violence and impose consequences on offenders

²⁶ NB At the time of this design, it is anticipated that funding for PACLII from 2011 would continue to be provided through the AusAID regional program. PACLII provides vital services for the Pacific region as well as all legal offices in Vanuatu.

- providing women with the means to protect themselves and their children from violence
- providing women with the information necessary to access their rights
- ensuring women are treated humanely and fairly by justice system personnel.

These strategies are consistent with GoV's commitment to gender and development objectives and to the GoV's law and justice sector Strategy.

4.2.5 Lessons learned

Lessons have been learned internationally and by Australia from working in the law and justice sector in Vanuatu for the past decade. Broader lessons about capacity development processes relevant to the public sector are also relevant.

The following is a summary of lessons learned in this context, combining points raised by various stakeholders during the design process, including those raised by previous reviews:

- As Vanuatu has both customary and formal justice systems, which are vastly different in their premises and values, any externally designed and funded programs need to understand, recognize and manage the implications of this for all activities – any long term 'solution' *must* involve locally-devised institutions (state or non-state)
- A deliberate effort is needed to bring about sectoral coordination and donor coordination – it does not occur simply through goodwill and commitment
- Capacity development in the law and justice sector, including the presence of aid-funded lawyers, requires careful consideration of issues related to legal cases in a small population, particularly as they affect political figures, bilateral relationships, financial dealings and other high profile issues
- Providing specialist TA personnel in key agencies makes a positive difference to the quality of service provided, which has an impact on the GoV and the building of capacity more broadly
 - But priority needs to be given to maximising GoV's ability to recruit and retain ni-Vanuatu lawyers and to ensuring the quality of these lawyers is appropriate to the needs of the sector
- Vanuatu leadership and the relevance and type of external contributions to capacity development is critical to the success of the sector
- A high degree of ownership is needed by GoV of donor program objectives and the best way to ensure this is to make the objectives of donor programs aligned with GoV objectives
- Getting the balance between in-line and advisory work of long-term technical advisers is challenging for all involved, may change over time and needs regular monitoring in capacity development terms²⁷.

²⁷ In the long-term, for GoV to achieve its own service delivery objectives, it may be appropriate for GoV to consider sourcing in-line personnel themselves rather than through aid programs.

- As Vanuatu is relatively small in population terms, the contribution needs to be modest and appropriate, based on a realistic understanding of what is affordable and sustainable in the context of GoV's overall budgetary/fiscal parameters
- A commitment to quality monitoring at the sectoral level will help GoV and GoA to develop an understanding about progress and outcomes to inform the Partnership overall
- Issues of constitutional independence of law and justice institutions need to be understood and require sensitivity

These lessons are incorporated into the design approach for the next phase of GoV-GoA cooperation (see Section 6 below).

4.3 Other donor activities

While Australia is the largest donor in the sector, other donors provide important contributions, particularly NZAP. NZAP is particularly committed to donor harmonisation in this sector and supporting GoV to take a leadership role in this regard. GoV is keen to increase coordination of donor contributions to maximize benefits to the sector and reduce duplication. Annex 5 provides details of other donor activities in the sector and opportunities for collaboration.

Aid donors are committed to the principle of donor harmonisation as part of their signing of the Paris Declaration on Aid Effectiveness but in practice there are ongoing challenges. It is proposed that in the next phase of Australian contribution, there be an explicit focus on donor coordination in the sector as a way of supporting GoV coordination on its side. Donor cooperation, consistent with the Cairns Compact, could be utilised better than existing arrangements under the proposed coordination model. More work is needed in the sector to operationalise Cairns Compact principles through the harmonisation of donor approval and procurement systems, particularly if, as GoV have requested, budgets for discrete items in future years are to be managed through government systems.

5. Rationale for next phase

Australia's commitment to support law and justice development in the Pacific combined with Vanuatu's demonstrated interest in the delivery of coordinated and quality legal services, provide a sound rationale and foundation for an effective and collaborative partnership in the sector.

In 2010, at the time of the design process, there was clear evidence of GoV leadership in a process of strengthening coordination between agencies operating in the sector and in sectoral planning and monitoring. It is appropriate for development partners to support GoV to lead implementation of the national Strategy and Plan. Donor support should preferably be coordinated by GoV in terms of its own priorities and negotiated with individual donors to match policy interests. However MoJCS comprised only two professional staff at the end of 2010, so does not yet have the capacity to undertake this level of coordination in the short to medium term (see Section 7.1 re DESPAC in Prime Minister's Office). The GoV has recently requested donors to consider pooling of funds to assist with a sector wide approach, as has been undertaken in other sectors (e.g. health and education). At the time of this design, GoA

considered that this is an appropriate aim to work towards in the medium term in this sector and that considerable work by GoV and all partners will be needed during Stage Two of this Partnership to support its achievement. This Partnership may contribute expertise to the process of assessing and strengthening relevant fiduciary systems, but based on other sectoral experience, pooling of donor funds is not considered achievable in this sector prior to 2015.

On 11 June 2010, the Minister for Justice and Community Services and a large number of senior GoV officials from law and justice agencies met to identify their own priorities within the Plan and to consider their stance on approaching development partners, particularly Australia. The key messages from this meeting included:

- GoV agencies as a group are capable of making their own decisions about priorities and directions within the Plan and they would value assistance with the development of information (research findings, support for legislative reform processes, policy advice etc.) which could support informed decision-making
- GoV agencies as a group have begun the process of planning collaboratively, working through the ideas associated with a sectoral approach and identifying challenges and opportunities
- GoV agencies have not yet prioritized which specific activities they wish donors to support, as they have not yet had the opportunity to develop sufficient substance in the Strategy. GoV wish to develop a higher level comprehensive framework for the seven pillars to fit into. This will also identify planning and budgeting processes for the Ministries under the strategy (at corporate plan level) and individual agency level (business plan level) as well as budget cycles, monitoring/accountability and reporting requirements
- agreed implementation plans, to budget for priorities and cost various activities
- GoV will be working through the detailed planning process for the sector between August 2011 and January 2012

GoV-led sectoral coordination and the related issue of coordination of development partner contributions to the sector are now much higher on the agenda than previously. The next phase should give priority to supporting GoV efforts associated with a sector wide coordinated approach. This includes explicit activities which support GoV coordination efforts as distinct from simply a general approach or commitment towards coordination.

Australia's cooperation in the law and justice sector should build explicitly on the achievements made and lessons learned to date through collaboration between GoV and Australia, through both VLSSP and VPFCBP, and now VAPP. This reflects the importance of long-term commitment and trusting and respectful relationships to successful collaboration and to the achievement of shared objectives and sustainable development outcomes. Lessons learned about what works well and the factors that contribute to success to date, in combination with an analysis of the contemporary context and policy priorities, should form the basis for planning. The next phase of collaboration should reflect shifts which have already been made in the Programs to date in terms of the nature of the engagement and the approaches followed, particularly to the placement of TA personnel. Global approaches to improving aid effectiveness, consistent with the principles of the Paris Declaration and the Accra Agenda for

Action, also need to be taken into account. The most important elements include promotion of greater GoV leadership in the sector, ownership of Program activities, alignment of systems and an explicit focus on organisational capacity development rather than the achievement of donor-determined sectoral results. Other lessons learned about management models, the selection of partner agencies and selection of capacity development tools assistance should also inform the way that ongoing cooperation is structured and managed.

Two key realities in this context need to be considered for the next phase of cooperation. First, there needs to be careful consideration by GoV and thus by Australia's aid program of the appropriate size and reach of the formal legal sector and what can be sustained in future. Overall, there is little prospect of the formal system being able to afford to be significantly larger than it currently is in the medium to long term, despite growing population and unmet demand, even with external funding. Second, many rural communities within Vanuatu have access to local informal elements of dispute settlement but the nature and usefulness of these elements are diverse across the country. While Chiefs are recognized in the Vanuatu Constitution and the Chief's Act of 2006, their precise roles in the law and justice sector are not defined. In addition, their role is not consistently respected and often not equally accessible and relevant for young people, women and men.

There is renewed momentum in the sector corresponding with the development in late 2009 of the first Law and Justice Sector Strategy and Action Plan for 2009-2014. The Strategy and Plan are comprehensive and ambitious, so priorities will need to be determined by GoV and then negotiated with donors, preferably on an annual basis to take account of changes and lessons learned. A useful donor contribution to this process would be technical support to develop materials which will assist GoV to make informed choices.

It is highly appropriate for development partners to increasingly support the GoV to lead and implement its Strategy and Plan. The quality of existing relationships has been critical to success so far from the perspective of the GoV, therefore efforts which emphasise good quality relationships are critical. The provision of high level legal experts has been highly regarded by GoV and the judiciary: their high level skills and commitment have been commended. From an overall development perspective the Program's contribution is positive. A more "arms-length" approach to in-line support by the Australian Government may be considered in terms of bilateral political implications.

Consistent with Cairns Compact principles, Australia is working across Vanuatu government to make increasing use of government systems for the planning, implementation, and reporting of Australian funded activities. Given the limited implementation capacity, particularly the lack of policy staff in the MJCS (and MoIA), our assessment is that it is not practical to use Vanuatu systems for the implementation of much of the proposed program. It is intended that the program will work to develop the capacity of partner agencies to coordinate and implement activities through *Stretem Rod Blong Jastis*. This support will need to be carefully monitored to ensure that these activities are being led by Vanuatu stakeholders rather than aid program implantation imperatives. The work of the program will

tap into broader efforts to improve monitoring and evaluation through GoV systems through the annual partnership for development talks.

Criminal and civil law issues in Vanuatu which absorb the majority of police, legal and judicial resources are related to violence against women and children and land disputes, as noted above. The severity of the extent of violence against women demands an explicit response in the next phase. It should also be noted that violence against women and children and land disputes are both highly pertinent to the interface between formal and customary legal systems.

Thus, in the light of the contexts described above, and current commitments by GoV and GoA, the most appropriate contribution that Australia can make to the quality of the sector is one which:

- Supports Vanuatu leadership in the sector, particularly in terms of a coordinated sector-wide approach (this could range from meetings of agency representatives on a regular basis for planning purposes, to support for greater efficiency of funding for circuit courts)
- Contributes to the quality and stability of public sector legal services, including police services and law reform in a cost-effective way which promotes sustainability
- Increases access by the majority of rural ni-Vanuatu women and men to affordable, relevant and sustainable services, including police services, consistent with human rights principles
- Contributes to the capacity of organisations involved in the provision of a range of legal services and law reform, from national public sector agencies to groups with expertise and systems aimed at community-based crime prevention and conflict resolution (this includes support for organisational development including human resources, financial systems and IT development, where assistance is prioritized by GoV and according to agreed criteria)
 - In particular, this involves supporting GoV (and regional) efforts to increase the quality, number and retention of ni-Vanuatu lawyers in the public sector
- Supports Vanuatu's efforts to determine an affordable law and justice sector, taking into account traditional approaches to preventing and managing conflict where agreeable, as well as international commitments relating to human rights, particularly for women, children and people with disabilities (under CEDAW, CRC and CRPD) Finds an appropriate balance between short-term service delivery and law reform imperatives, sustainable institutional capacity development processes and a long-term vision of an affordable and appropriate law and justice system for Vanuatu
- Facilitates donor harmonisation, including within Australian funded activities.

6. Description of Program

This design includes a set of design elements and approaches to support a flexible partnership for the duration of the new Partnership. During Stage One, details for the subsequent years of programming will be developed followed by a joint appraisal/approval process. Stage Two will comprise two years and nine months of implementation of the plans approved during Stage One, subject to approval.

The form of aid proposed falls between a traditional “project” (where clear objectives, outputs, activities etc are pre-determined, time-specific and related to each other in a cause-and-effect relationship) and a “sector-wide approach (SWAP)” (where all donor support contributes to a Government plan/objectives and funding is pooled and utilized through Government systems). This reflects the history of collaboration to date, the current sectoral capacity context and newly emerging sectoral leadership by GoV. Such an approach requires emphasis on good quality relationships, ongoing negotiations about the contributions of donors to a single plan, shared responsibility for achievements and flexibility. This document provides the framework to enable this emphasis, while ensuring quality assurance procedures and accountability measures are included. The theory of change underpinning the approach is: that when leaders act in coalition in an informed and coordinated way in the national interests, then it is more likely that national law and justice objectives (including access to justice, human rights protection etc.) will be met.

6.1 High Level Objectives

The GoV’s vision for the sector is: “a professional, competent and accountable law and judicial system that enables equal rights and access to justice for all” and its mission statement is: “for all justice agencies to promote justice and provide fair and equitable services to meet the needs of the community, the rule of law and protection of human rights”.

GoV’s vision and mission statements provide high level objectives for the GoV and GoA Partnership in this sector. From a donor perspective, these statements represent the high level objectives to which Australian assistance will make a strategic but relatively modest contribution, not those for which the Australian assistance is accountable for achieving.

Importantly, the GoV vision captures the important roles of cultural values, human rights and customary community-based justice systems by identifying three “fundamental principles” which underpin the work of the sector (custom and tradition, moral and spiritual values and human rights). The Australian aid contribution should work to understand the implications of this approach and support the application of these principles and negotiate other shared principles (e.g. shared approach to gender equality and capacity development) to work in the sector.

6.2 Partnership Components

To contribute towards the vision and mission articulated above, the Law and Justice Partnership will have three components²⁸:

- 1. Sectoral coordination, including donor coordination**
- 2. Capacity development**
- 3. Policy Development, Research and Monitoring**

The program will be split into two stages:

- Stage One includes a planning stage and a period during which the proposed implementation plans will be appraised and considered for approval and contract extension.
- Stage Two during includes implementation of the approved plans will be undertaken if an extension is granted.

This planning period will produce both GoV's implementation plan for the whole sector and a plan for Australia's contribution to the sector for Stage Two. Once drafted, the Australian plan will be subject to a joint quality assurance process (see Annex 16). This process will include peer appraisal, facilitated by AusAID, involving Partnership stakeholders as well as at least two external appraisers with a deep knowledge of the context and sector. As a result of the peer appraisal, AusAID will determine whether to proceed with a contract extension for Stage Two. In practice this means that AusAID will engage a managing contractor for Stage One for 15 months, with a possible extension period of two years and nine months. During Stage One, the successful bidder for the Program will prepare a detailed plan for Stage Two, which clearly articulates the Australian funded contribution and the expected results. This plan will be based on GoV priorities and will reflect negotiations between GoV and GoA, facilitated by the Managing Contractor.

It should be noted that information about the annual budget allocation should be passed through Vanuatu's Department of Finance and MBC and all agencies need to continue to be informed of donor funds through each agency. After 2012, consideration should be given by AusAID to elements of Program funding being deposited into respective GoV accounts, subject to fiduciary reviews and other processes determined by GoA.

Each of the above components and phases are described below:

6.2.1 Component 1: Support for sectoral coordination, including donor coordination

This component will involve direct support to the MoJCS so that it can coordinate agencies' efforts to plan for and then implement the Sector Strategy and Action Plan 2009-2014 in an informed manner. This process is likely to include several tasks, including defining steps needed under broad objectives, prioritizing action plans for the sector and aligning them with individual agency plans, costing and

²⁸ These three components are proposed for management purposes (i.e. to organise inputs) but there are clear overlaps between them conceptually, for example, both Components 1 and 3 involve capacity development approaches and processes. Also, Element 1 includes the development of plans for Stage Two for all Components.

setting more specific monitoring frameworks. All of these steps by GoV will occur within agreed decision-making processes, particularly through the Heads of Agencies Group established to implement the Sector Strategy. Other existing mechanisms can also be used in particular areas and some working level groups may be needed to develop detailed plans and processes.

This component will provide support for GoV to articulate its own plans for an affordable, culturally relevant and accessible law and justice sector for women and men, including recognition of the value of community-based activities which prevent crime, respond to conflicts and settle disputes. The result of this support will be a GoV-determined, sector-wide and detailed plan.

Importantly, this component of support will directly involve coordination processes to bring together in a single place all donor funded contributions to the sector. This will include activities funded through Australian and New Zealand aid agencies and other activities/agencies at regional and international levels. The key will be to ensure that GoV has a clear picture of all contributions and some prospect for ensuring that they are appropriately targeted to suit the sectoral approach and objectives. This component will involve extensive liaison and planning across regional and other national programs supported by Australia and other donors to maximize synergy and coherence. This will include programs with police, chiefs, churches and community organisations and those working in the area of lands, violence against women and governance.

As noted above, there will be two stages to this support: an initial fifteen month period which incorporates nine months of support for planning plus continued funding for capacity development activities for agencies, including placement of long-term personnel as described below. The nine month planning period will focus attention within MoJCS itself during the process of refining the sectoral approach and turning it into actionable plans for each agency in a coordinated manner. The subsequent six months will enable capacity development activities to continue while the requisite quality assurance processes (appraisal, approval and possible contract extension) are completed. In Stage Two support will be focused on coordinating and supporting GoV's implementation of its own Strategy and Action Plans and monitoring to track progress and achievements, as well as implementation of the approved GoA contributions to the overall Strategy and Plan.

Support from Australia during the planning phase will include processes and funds for sector-wide planning. At the end of June 2012, GoA will have a detailed draft plan for its own contribution to the GoV sector plan for Stage Two. Implementation of Stage Two is expected to commence in January 2013, but could start earlier if approvals are obtained. The approved plan will include an overall framework and approach, clear expected results, as well as an action plan for Stage Two. The Managing Contractor will be required to document this plan for GoA's contribution to the GoV plan, consistent with the broad elements described here and following a series of planning consultations. Annual Plans, consistent with this overall framework, would then be developed for 2013, 2014 and nine months in 2015, and approved by the Partnership Governance Group (Heads of Agencies Group).

Objectives Stage One:

- Assist GoV to develop its comprehensive framework to support the implementation of the sector strategy, including the identification and documentation of processes to prioritise, plan, cost and report on the strategy.
- Prepare a plan for Australia's contribution to this framework for Stage Two of the Partnership, including in police and justice agencies.

Objective Stage Two:

- Support GoV to coordinate implementation, monitoring and donor contributions to the sector strategy, and support Implementation in priority areas

To achieve these objectives, the following **inputs** are required in 2011-12

- Placement of a full-time Partnership Coordinator (recruited internationally) in MoJCS responsible for:
 - a. assisting MoJCS to coordinate planning across the sector;
 - b. assisting MoJCS to coordinate donor contributions to the sector, including with AFP through VAPP;
 - c. coordinating capacity development approaches and inputs through Australian aid program, including support for and monitoring of TA personnel;
 - d. managing program personnel and other aspects of program management, including developing shared approach on gender equity, culture/context and kastom law;
 - e. assisting GoV with law and justice policy development processes across the sector, including supporting GoV efforts in relation to interaction between Government and kastom law;
 - f. overseeing development of plan (design) for Stage Two of the sector Partnership (see Annex 10 for details);
- Funding for costs of facilitating and documenting planning processes for Stage Two of the sector Partnership;
- Funding for short-term expertise to assist GoV with development of specific plans related to strategy implementation, e.g. workforce plans, human resource development plans (covering ongoing professional development, succession planning etc.), monitoring and budgeting/costing;
- Funding for additional costs required for sector meetings associated with all aspects of planning (beyond costs already allocated by GoV; subject to agreed criteria and; in accordance with GoA/GoV public financial management requirements);
- Funding has been estimated at AUD237,000 for the above three funding inputs (i.e. not including personnel costs for the first input above), and is expected to cover:
 - meeting costs (contributions to Heads of Sector Agency meetings if required, PCC meetings, Sector agency planning workshops) – approximately nine meetings per year at a total of up to AUD18,500 per full year);
 - donor coordination activities – approximately two donor meetings per year at a cost of up to AUD4,000 per full year;

- sectoral communications costs – including newsletters at a cost of up to AUD7,500 per full year;
- sector monitoring expenses – allocated at up to AUD18,000 per full year;
- the design process – an allocation of up to AUD5,000 in Stage One.

6.2.2 Component 2: Capacity Development

This component will support the capacity development efforts of Vanuatu agencies by continuing the delivery of a modest number of inputs, many of which have been provided in the previous phases of cooperation²⁹. While technical assistance (TA) personnel will be placed within the head offices of selected law and justice agencies, other capacity development support at organisational levels will be provided more broadly for the sector within an “organisational development” context rather than focused on individual officers. The exact mix will depend on negotiations between stakeholders. This mix of inputs will reflect agreed priorities and lessons learned about the most effective and efficient methods, and could include initial implementation of any priorities generated under Component 1 above, if they are consistent with agreed criteria and within agreed budget. Inputs will be selected on the basis of the relevant objectives, the appropriate tool for each context and transparent cost-effectiveness comparisons (see Annex 13 which includes a list of capacity development inputs and strengths and weaknesses of each). Options could include: in-service training, exchange and study visits, professional development systems/linkages, twinning arrangements, short and long term TA personnel where they are deemed the most appropriate contribution. It is recommended that during 2011, Vanuatu-based training is prioritized over Australia-based training, to maximize relevance, and that decisions about priorities be based on full transparency about the relative costs of each option. Some minor support for office infrastructure and equipment may also be considered within agreed criteria about maintenance and GoV budgeting commitments. Any TA personnel placed in GoV agencies will be jointly supervised by the respective Head of Agency and the Partnership Coordinator. The mix of TA and other contributions to capacity development may vary over the period 2011-15, depending on agreements negotiated within Annual Plans³⁰. A budget of been estimated for capacity development activities, the allocation of which between types of activity³¹, offices and years should be negotiated according to GoV expressed priorities and feasible options available each year. Suggested allocations have been made across the following headings on the basis of previous experience and discussions with GoV :

²⁹ Subject to the design process for the next phase of VPFCBP, there should be a common approach to capacity development, and possibly coordinated implementation systems where appropriate.

³⁰ Approaches and practices will be subject to the AusAID Adviser Remuneration Framework and the joint annual review of TA by Australia and Vanuatu.

³¹ The current sector agencies are supportive of continued legal officer placement programs in Australia and participation of officers in the Victorian Bar Readers course, and this request should be considered within the overall budget in a transparent manner.

- Training workshops (up to eight per year estimated at up to AUD90,000 per full year);
- Study tours and twinning arrangements (four tours per year estimated at up to AUD180,000 per full year);
- Internships (up to four per full year for a budget up to AUD36,000 per full year);
- Research (approximately AUD30,000 per full year);
- Other capacity building activities (approximately AUD100,000 per year) (to be available for either planned or emerging professional development activities and allocated in a transparent process according to agreed set of criteria – this should include funding for officers who have already commenced courses at USP funded by the current phase of VLSSP).

At a broader level, the Partnership will also support GoV's efforts to increase the quality of ni-Vanuatu lawyers, and their recruitment and retention. There is a number of existing scholarship options, but Australia does not support scholarships for lawyers outside USP at present. AusAID's regional program (from which funding for USP is provided) should work with USP to improve the quality of graduates, where possible, and AusAID in Vanuatu should consider other ways for GoV to achieve its human resource needs in this sector. In terms of ongoing professional development, there were efforts in 2010 by the emerging Vanuatu Law Society (with USP) and potential in the new Legal Profession Bill to improve the quality of continuing legal education for existing lawyers. This component of the Law and Justice Partnership should support aspects of this work, where they are deemed as priorities by Partnership stakeholders in annual plans.

A set of criteria to guide negotiations needs to be developed jointly. It is assumed that by Year 4, GoV will have sufficiently experienced and qualified lawyers or alternative ways of recruiting legal personnel in the public sector, but this should be subject to discussions and reviews closer to the time.

Objective Stage One:

- Ensure sustained delivery of current level of basic legal services to GoV and population.

Objective Stage Two:

- Increased self-reliance of agencies in the sector in terms of their organisational capacity to achieve objectives, relate to others, attract resources, balance core business with emerging issues, etc.

To achieve these objectives, the following ***inputs*** are required for Stage One:

- Development of a calendar of organisational capacity development events to be funded and supported by the Partnership (including a portion of funding to cover professional development opportunities that may arise during the year)

- Events will include: training activities in Vanuatu and within the Pacific for all or several agencies; exchanges; professional development activities; study tours; updating of the Civil Court Practice³²
- Funding for costs of placing short term and long term TA personnel³³, with a dominance of indirect advisory responsibilities, with the option for a small degree in direct service delivery (determined through negotiated agreement between GoV and GoA according to agreed criteria drafted by the Managing Contractor, and following the terms of the Adviser Remuneration Framework), in the following agencies for 6 months:
 - 1 long term adviser in Public Prosecutor's Office
 - 1 long term adviser in State (Police) Prosecutor's Office
 - 1 long-term adviser in Public Solicitor's Office
 - Short term advisers for cross-agency or agency specific capacity development activities beyond those identified above, for example to support establishment of the Law Reform Commission and initial planning processes, to provide part-time advice to the PSO and possibly to the State Law Office (SLO)³⁴
- Funding for other capacity development activities to support agency effectiveness, such as minor office refurbishment and equipment expenses (for example funding allocated during 2010 for the establishment of the Law Reform Commission)
- An allocation of approximately AUD1.6m has been included in the budget for Stage One for infrastructure/equipment, based on the following estimations, the allocation of which will need to be negotiated among stakeholders each year:
 - Office equipment for coordinator and MoJCS Coordination office (AUD9,000 per year for first 2 years and AUDA4,500 for second 2 years)
 - Car for Coordinator and MoJCS Coordination office (estimated AUD40,000 in first year)
 - Allocation of AUD100,000 per year for other equipment to be spread across sectorally-negotiated priorities³⁵

³² In previous years a regular component of VLSSP has been the placement of ni-Vanuatu lawyers in Australian legal officers and sponsorship for attendance at the Victorian Bar Readers course. While these have been popular incentives and useful for individuals, it is not clear whether these are the most effective contributors to agency capacity.

³³ A mix of international and local personnel should be considered for these positions, subject to merit-based joint recruitment processes against agreed selection criteria. Project funding should not be provided for ni Vanuatu personnel to fill in-line positions unless in exceptional circumstances – e.g. if a key in-line position is required before the GoV budget process has been completed.

³⁴ A mix of international and local personnel should be considered for these advisory roles, subject to merit-based joint recruitment processes against agreed selection criteria. Advisory support to the SLO may be considered in 2012.

³⁵ This may include funding for installation of electronic databases for public legal offices if determined to be a priority by all stakeholders.

- Allocation of AUD100,000 for incidental office refurbishment for sector agencies, with the bulk expected to be spent in Stage Two, with priorities determined each year in joint planning negotiations
- Allocation of up to AUD1.4m for SLO office construction (as agreed between GoV and GoA in 2008 and approved in 2011).

6.2.3 Component 3: Policy Development, Research and Sector Monitoring

This component will support GoV to make its own decisions about the future of the sector by funding personnel and other activities which can provide data and research to inform these decisions. The component is consistent with GoV's Strategy and responds to priorities identified in the 2009 Annual Report. At present there is a great deal of legal expertise within Vanuatu but the plethora of agencies and the priorities accorded to direct service delivery, mean that insufficient resources are available for analysis, consultation processes, prioritization of legislation development agendas, monitoring and policy development across the sector. While these responsibilities will be required of MoJCS in the medium term, the Program will support the Ministry in the short-term in order to facilitate effective decision-making both in 2011 and in subsequent years, with the emphasis shifting from information relevant to planning in 2011 to monitoring in subsequent years.

Objectives Stage One:

- Enhanced understanding about key legal issues to inform policy development , particularly those identified by GoV as priorities for 2012:
 - Better coordination and strengthening of sector plan activities
 - Human resources and capacity
 - Provincial Service Delivery
 - Legislation and international conventions
 - Support for victims of crime
- Under these headings, support could be provided (subject to early discussions between GoA and GoV) on selected issues (such as Family Law) related to progressing the rights of women, children, people with disability; the interface between formal and customary law particularly at community levels; and continuing legal education beyond specific agencies.
- Sector wide monitoring system developed to enable GoV and partners to monitor progress and assess sector-wide achievements.
 - this would encompass three kinds of monitoring:
 - of policy development and the outcomes of policy changes
 - of the sector's progress against its strategy objectives
 - of the donors' contributions to achievement of objectives)

Objectives Stage Two:

- Policies on selected legal issues have commenced implementation and GoV Strategy objectives are progressively being met.
- Effective sector-wide and agency specific monitoring systems in place.

To achieve these objectives, the following **inputs** are required:

- The role of the Partnership Coordinator will include responsibility for supporting GoV's policy development processes, including linking with Jastis Blong Evriwan, USP and other activities and collaborating with stakeholders to determine a list of priority policy development activities which can be implemented progressively over the life of the Partnership – particular emphasis will be given to processes which support improved interaction between formal and kastom law.
- A full-time locally-appointed Monitoring Officer to be placed within MoJCS, to both assist MoJCS with sector monitoring and to develop and implement Partnership monitoring systems.
- A specialist internationally-recruited part-time Monitoring Specialist to provide periodic specialist advice to the Monitoring Officer and sector stakeholders (see Annex 10 for detailed position descriptions for both roles).
- Funds for assisting GoV personnel to lead and participate in research and monitoring capacity and policy development according to priorities agreed upon by HoA Group.
- Funds for other Vanuatu based research and monitoring activities, building on/informed by relevant regional research initiatives and priorities.
- Funds for moderate-level baseline assessment covering:
 - existing context in terms of GoV leadership, extent of coordination in sector, perceptions about role of formal and kastom justice systems,
 - capacity strengths
 - size of sector
 - access issues affecting women, men, children, people with disabilities as well as rural and urban communities
 - quality and extent of legal services provided
- An indicative budget allocation of AUD800,000 has been made for this area of work, beyond personnel costs. It is expected to cover activities related to eliminating violence against women and promoting gender equity in the sector (allocation in budget AUD160,000 over 3.5 years), contributions to the Community Legal Centre (AUD20,000 per year) and Continuing Legal Education (CLE) (provisionally allocated at AUD50,000 per year), as well as research and activities about the interface between kastom and formal legal systems and other agreed issues (provisionally allocated up to a total of AUD145,000).

6.2.4 Overall Partnership outcomes

The outcomes of Australian assistance for the period to end 2015, consistent with GoV sector objectives, are expected to be as follows:

- Increased GoV leadership of the sector.

- Increased coordination across the sector, whereby stakeholders are working in synergy where appropriate.
- Sectoral capacity is increased, represented through improved performance and ability of GoV and other stakeholders to achieve shared objectives relating to law and justice priorities, such as human rights.
- The quality of formal legal service delivery for GoV and the Vanuatu population is maximized within an affordable budget.
- The interface between formal justice and *kastom* law systems is clearer and more widely understood within the sector and beyond.
- Use of the GoV's definition of the law and justice sector is increased to take into account the critical role of agencies and *kastom* leaders/chiefs beyond urban centres and outside Government.
- Increased and more equitable access by ni-Vanuatu women and men to affordable, sustainable and culturally relevant services which promote harmony and justice.
- Increased understanding about the interface between formal (including police) elements and *kastom* leaders/chiefs systems in delivering services and maintaining harmonious communities to inform better practice and increased access.

Assessing these outcomes will be challenging, but with a good baseline study during 2012 and good quality monitoring, it should be possible to develop an understanding of changes towards these outcomes in years leading up to 2015/16.

7. Approaches

The Partnership approach will include the following elements:

- Development of agreed *principles for collaboration* (see Section 7.1 below)
- Use of GoV's *definition* of the law and justice sector to include both formal and *kastom* legal systems and agencies (see Section 7.2 below)
- Commitment to *shared decision-making* over the strategic direction of the partnership and over the allocation of funding (see Section 8 below), based on agreed criteria
- Clear definition of *capacity development approach* (see Section 7.3)
- Shared commitment to increasing *alignment of donor contributions to GoV planning, budgeting and monitoring systems* (see Section 8 below)
- Shared commitment towards implementation of international conventions particularly those relating to *gender equity (CEDAW), rights of children (CRC) and people with disabilities (CRPD)* (see Section 7.4 below and Annex 3)

7.1 Principles to guide collaboration

Experience of aid programs internationally has shown that the way in which partnerships and activities are conducted is often as important, if not more important, than the content of programs. Thus the negotiation of and commitment to use shared principles to underpin Partnership implementation is

critical. Some suggested principles are included below, but these should be discussed explicitly by GoV and Australia at the beginning of the Partnership and adjusted to suit. Periodic review is recommended.

The principles proposed below relate to the specific experience of the VLSSP and other programs to date, international aid effectiveness commitments, and lessons learned in the area of capacity development.

- Collaborative action is required to achieve shared objectives and bring about relevant and sustainable benefits
 - To achieve collaborative action, mutual respect and trust are essential: neither occur “naturally” – they take commitment and sustained effort on both sides
- Accountability, transparency and open dialogue are critical elements in public sector and law and justice activities generally, as well as in Partnership management
- Respect for the rule of law and for traditional values of Vanuatu is fundamental to achieving success and relevance
 - A holistic approach to the law and justice sector, inclusive of formal and kastom law systems and organisations representing different aspects of law and justice, will help ensure increased access to services across the country
 - An approach to setting sectoral goals which includes the police is critical – this means both VPF and donor support to VPF through the VAPP
- Sustainability of benefits can be achieved through a continued focus on contributing towards the capacity of Vanuatu organisations so they are increasingly self-reliant
- GoV leadership is critical to success of sectoral coordination efforts and donor harmonisation efforts and the role of donors is to support and strengthen these processes
- Joint Partnership governance promotes ownership and provides relevant guidance to those implementing activities, including VPF and other agencies across the sector
- Close alignment of Partnership activities with GoV’s priorities and objectives is fundamental to sustainability of benefits
 - Similarly, close alignment of Partnership activities with GoV’s existing systems for planning, budgeting, human resource management, monitoring and financial management will maximise relevance and sustainability
- Equal access and opportunity for young people, women and men is imperative for sustainable development to occur
 - Partnership activities should reflect GoV gender policy commitments as outlined in existing policies
- Taking a shared responsibility for the achievement of results, including through regular, joint monitoring and periodic reviews of progress against objectives, will increase likelihood of sustainable and relevant benefits.

7.2 GoV definition of the law and justice sector

The GoV Law and Justice Strategy uses a broad definition of the sector, including both formal and *kastom* legal systems and agencies, as well as churches and civil society. The Sector Strategy notes that the role of chiefs and traditional community leaders, including churches, in community justice, community awareness, settling conflicts and maintaining harmony is a critical element in the sector as a whole. There is interest in GoV and in the law and justice sector specifically in determining how this might be manifested in practice, from a formal policy and legal perspective. Determining how external cooperation might support more effective interaction between the two systems needs to be carefully and respectfully negotiated as donors do not necessarily have relevant technical content. Thus the emphasis should be on supporting good policy development processes (e.g. consultative dialogue) and research, supporting the piloting or trialling of particular approaches and monitoring of change over time. There is already research work underway by the World Bank, funded by AusAID, which will contribute to this area of policy development. Australia's support to and experience with civil society, churches and *kastom* governance in Vanuatu should make this contribution meaningful and appropriate. Explicit coordination between these other Australian-funded activities and the law and justice sector is particularly important in this regard. For example, the Governments of Australia and Vanuatu could organise regular *storians* (discussions) between those involved in related activities on agreed themes and research topics.

There are many GoV and other agencies involved in law and justice policy and service delivery. The VPF is the largest agency and needs to be central to sectoral planning and implementation of sector-wide strategies, while recognizing its uniqueness in the sector. While the next phase of the Partnership will support GoV's sectoral approach, direct funding support is not necessarily going to be provided to all organisations otherwise contributions could be too thinly spread and less likely to achieve a reasonable result. GoV and GoA need to be in regular discussions about key priorities for Australian support to GoV over time, guided by the principles and processes included in this PDD and also the upcoming Law and Justice Outcomes Schedule under the Partnership for Development. At all stages, VPF needs to be included in sectoral planning and implementation strategies.

At the national central level, the Prime Minister's Office is responsible for the State Law Office and for overall Government coordination and policy, as well as for aid coordination through the Department of Strategic Planning and Aid Coordination (DESPAC). The two primary Ministries are MoIA, which includes responsibility for VPF and MoJCS, which coordinates the budget for other elements in the sector and plays a coordinating role from the public sector perspective. At present, the MoJCS comprises the Department of Justice and Community Services (a Director General and small Corporate Services section).

The GoV-GoA Partnership overall³⁶ will include MoJCS (and agencies under the MoJCS) and VPF, operating under MoIA. On aid coordination, issues, DESPAC will also be directly involved. Over the next

³⁶ This encompasses both the current and future work by AFP with VPF and by AusAID with other agencies.

phase of cooperation, GoA is committed to strengthening coordination between its current two large programs, with the VPF element to be implemented by AFP and the justice element to be implemented by a Managing Contractor.

During 2012, for the justice element, **primary participants** will be:

- Department of Justice and Community Services
- Public Prosecutor's Office
- Public Solicitor's Office
- State (Police) Prosecutor's Department; and
- Possibly the State Law Office (SLO)

Secondary participants in a variety of cross-sectoral activities supported by this Partnership for the period to 2016 will include:

- Other agencies operating under MoJCS such as Department of Women's Affairs, Malvatumauri National Council of Chiefs, Vanuatu National Council of Women³⁷
- Agencies operating under MoIA and PMO related to law and justice sector
- Other organisations with interests and programs in the sector which fall outside GoV
 - Vanuatu Christian Council and other churches
 - University of South Pacific Law School, including PACLII
 - USP Community Legal Centre
 - NGOs with programs involving youth diversion and awareness raising programs, such as Wan Smol Bag and Save the Children
 - Vanuatu Law Society
 - Vanuatu Women's Centre

The judiciary operates substantially outside the public sector context, on the basis of Constitutional status and perceptions about judicial independence from public sector reforms. This means that the prospects for inclusive approaches in broader public sector reform are somewhat limited. However, the Pacific Judicial Development Program is a source of collaboration for the judiciary in Vanuatu with targeted development assistance provided by Australia and New Zealand. The Chief Justice is a member of the Heads of Agency group so the judiciary will be represented in the GoV process of sectoral coordination and monitoring.

³⁷ In 2010, this organisation has been in disarray due to leadership/management breakdowns, some of which have led to court proceedings and it is not clear when the organisation will be fully operational again.

7.3 Capacity Development Approach

A continued focus on supporting the institutional development of central law and justice agencies is important, while recognizing that capacity development is an ongoing process. Vanuatu's law and justice sector will benefit from long-term engagement with other countries to support its capacity to meet all demands for services, both police and other legal services. While capacity of some of the agencies has increased in recent years, there is still clear demand for high quality legal expertise in the public sector which cannot yet be met locally for a variety of reasons as well as scope for appropriate levels of institutional development aimed at developing medium-term self-reliance. Short-term service delivery (with clear parameters and exit strategies which should be jointly developed as part of the design for Stage Two) will remain an element of future collaboration, alongside medium-term capacity development and support for longer-term sectoral goals.

The Partnership will continue to support efforts by Vanuatu organisations to build their own capacity towards self-reliance. Organisational capacity can be defined and conceptualized in many ways. For this Partnership, the following broad set of capabilities is proposed, (in order to help stakeholders understand that capacity is not simply about skills transfer):

- The capability to plan and act
- The capability to deliver technical services
- The capability to relate to other organisations and attract resources
- The capability to find the right balance between core work and other matters
- The capability to respond to changes in the environment or lessons learned³⁸

For Stage One of the Partnership, there will be continued capacity development support for several key agencies at national level in the formal sector (Component 2). It is envisaged that in Stage Two of the Partnership, capacity development support will continue but may be re-configured to address agreed priorities across the sector and may cover a broader range of organisations. There is potential to significantly coordinate capacity development approaches (e.g. joint development of principles, tools, frameworks etc.) across the sector, including for VPF, where relevant.

Capacity development is much more than simply "skills transfer" or "training" – it is an internal process of change over time within people and organisations. No-one can build someone else's capacity but they can contribute towards another's own capacity development process over time. In the case of the law and justice sector in Vanuatu, there is a new interest in understanding and strengthening the capacity of the sector as a whole, and Component 2 of this Partnership will focus in this area.

³⁸ These capabilities are summarized from Morgan, P "The Concept of Capacity" and used by AusAID to inform capacity development programs

Annex 13 lists a number of selected capacity development tool options for this Partnership with strengths and potential risks and some implications for this Program. The list includes:

- provision of external personnel, (technical assistance (TA) personnel) for short or long-term in-line, advisory, project management or coordination roles
- coaching or mentoring
- Exchanges
- attendance at conferences, workshops, seminars
- study tours (these will be subject to particularly careful scrutiny to ensure they are the best capacity development approach in the circumstances)
- organisational twinning arrangements
- training – customized or off-the-shelf, in-house or external, informal, formal, training of trainers, scholarships
- research – use of existing research project information or commissioning of research - joint or independent
- provision of assistance in planning and maintaining infrastructure and equipment, as well as direct funding for infrastructure and equipment

Specific capacity development activities to be included in Component 2 will be negotiated late in 2011 (led by Partnership Coordinator, based on consultations with all stakeholders; and approved at first Heads of Agencies Group meeting following Partnership commencement) and listed in an agreed calendar of events for the year. Subsequent annual calendars of events will be facilitated by the Partnership Coordinator, based on negotiations with Partnership stakeholders as part of an Annual Planning process.

In Stage Two, it is possible to broaden the scope of capacity development collaboration beyond the PSO, PPO, SLO and the Police Prosecutions Office³⁹, to include support for other law and justice stakeholders and issues, based on information about progress in formal agencies and emerging research findings about the sector more broadly, including roles and capacities of non-state actors. This may include activities which are relevant to more than one agency as well as activities to support the work of non government agencies.

³⁹ NB Funding for this position has been included for Stage One only, based on discussions during the design process

7.3.1 Placement of Technical Assistance Personnel

The selective placement of TA personnel will continue in 2011, as requested by GoV⁴⁰. It is likely that there will continue to be a modest contribution of TA personnel for years 2 to 4 of the Law and Justice Partnership, given the context described earlier. The Partnership Coordinator will be nominated as part of the tender process. Recruitment for all other long-term advisory positions in GoV offices will be jointly undertaken by GoA, GoV and the Managing Contractor. TA personnel will be jointly recruited on the basis of capacity development and technical skills as well as personal attributes. They will be provided with modest salaries and allowances. TA personnel will primarily be expected to be undertaking capacity development work with their respective offices, and Partnership leaders should make all efforts to ensure that TA personnel are regarded as one of many contributions to capacity development. This means their primary role is to support other staff in a wide variety of ways to undertake their responsibilities, with the main focus on sustainable benefits and promotion of Vanuatu capacity development. In addition, TA personnel will be expected by their respective Heads of Agency to undertake occasional in-line work, but this will need to be kept to a minimum and be subject to joint agreement, regular monitoring and occasional governance scrutiny. Heads of Agencies have sought a stronger role in managing advisers' terms of reference and leave arrangements.

As noted in Section 6 above, for 2012, full-time TA personnel⁴¹ will be sought for the following positions:

- Prosecutions Adviser, Public Prosecutor's Office
- Legal Adviser, Public Solicitor's Office
- Prosecutions Adviser, State (Police) Prosecutor's Office;
- And possibly advisory services to the State Law Office (SLO).

There is increasing scope for advisers to support provincial level office development, either through short-term placements or other activities to support provincial-based Ni-Vanuatu legal officers. Since law and justice issues are significantly influenced at community level by the roles of chiefs, churches and other community leaders in settling disputes (particularly relating to land) and maintaining harmony, a Partnership in this sector needs to consider and support efforts relating to these roles. This is a

⁴⁰ As noted above, the dominant Partnership approach to capacity development in the past decade has been the placement of a relatively small number of short-term and long-term technical assistance (TA) personnel, in a mix of in-line and advisory positions⁴⁰. In the most recent phase, long-term placements have been funded in four central agencies, all based in Port Vila. Personnel have been recruited by an Australian state government department and have been largely supported by an in-country Team Leader. Personnel have been paid relatively modest salaries as contractors.

⁴¹ NB1 The Partnership Coordinator should also play a role in supporting and contributing to facilitation of organisational development processes and systems as well as policy development processes across the sector, so to some extent, could be regarded as a TA person, but in this PDD is described as a management role.
NB2 In the final year (2015) of this phase, an allocation of 6 months out of 12 months has been made for advisers, but this should be assessed closer to the time and negotiated accordingly. It is expected that more senior ni-Vanuatu lawyers will be in place and fewer external personnel will be required.

challenging area requiring long-term vision-setting and sustained dialogue between groups with diverse philosophical perspectives. Access to law and justice services by rural communities needs particular attention, especially women and young people.

Experience has shown that very careful planning and management is required for TA personnel to be effective and appropriate⁴². During 2011, the following guidance is provided for positions funded by this Partnership:

- GoV stakeholders will be involved in the selection of TA personnel;
- TA personnel will be jointly supervised by the Partnership Coordinator and respective Head of Agency;
- Position Descriptions will be prepared using GoV formats (see drafts included at Annex 4) and will be revised to incorporate GoV perspectives on roles and expectations;
- TA personnel will be selected for their skills in capacity development and cultural adaptability as well as their legal expertise;
- TA personnel will be provided with detailed briefing prior to placement, and once they arrive in Vanuatu on capacity development theories and practices relevant to the context, as well as broader sectoral and organisational development issues;
 - They will be particularly briefed on the relationship between Vanuatu cultural values and concepts of capacity and capacity change over time;
 - GoV officials (supervisors and colleagues) will be involved in briefing for TA personnel so that there are opportunities for developing shared understanding of expectations;
- Roles for TA personnel in relation to capacity development, monitoring and reporting should be clearly defined in position descriptions, annual plans and other agreed documentation;
- Where in-line duties are required (after consideration of all other options) by TA personnel, they should always prioritise the use of capacity development approaches, for example, demonstration for less experienced staff, documentation of processes to be shared with others, organisation of meetings to facilitate reflection and sharing of experiences;
- GoV will be responsible for facilitating lawyers to be admitted as practicing lawyers under GoV requirements, whether they are going to be providing capacity development or in-line work;
- The Managing Contractor will be responsible for ensuring TA personnel are covered by liability insurance (professional indemnity insurance) (costs are included in the budget);
- Participants in capacity development processes (i.e. TA personnel and their supervisors and colleagues) should be appropriately briefed and supported through planning processes, as well as given ongoing training and support in capacity development implementation approaches;
- The performance of TA Personnel should focus on the quality of their capacity development efforts, recognizing that they are one of many factors influencing the capacity of organisations so cannot be held responsible for capacity “outcomes”;

⁴² See AusAID, 2009, Frequently Asked Questions on Technical Assistance Personnel

- TA Personnel will be required to provide regular monitoring reports on their capacity development activities and provide information about any noted changes in capacity in their respective agency, to their respective Head of Agency and to the Partnership Coordinator.

7.4 *Human rights conventions*

The rights of women, young people and people with disabilities are critical aspects of any country's legislative and legal systems. GoV stakeholders expressed clear requests for Partnership support in these areas as they proceed to implement the respective aspects of Vanuatu's commitments under three human rights Conventions (CEDAW, CRC and CRPD). The MoJCS has carriage for these commitments nationally in terms of policy development and coordination of efforts to comply. MoJCS also is responsible for GOV's response on the Convention against Torture. The Department of Women's Affairs has four program staff, three of whom address gender issues, and one is responsible for a Children's Desk. The Department is also responsible for implementation of CRPD but has no dedicated human resources for this purpose in 2010.

The Partnership will give priority to supporting GoV efforts in relation to gender equity in the law and justice sector consistent with the Sector Strategy's approach of integrating human rights across all sectoral work. This support is envisaged as occurring in each of the three Partnership components (see 6.2 above). In Component 1 (Coordination), specific attention will be given to supporting GoV to achieve its coordination priorities in relation to the human rights of women, children and people with disabilities. Coordination with other current related activities, such as Australia's support for the Vanuatu Women's Centre and for the implementation of the Family Protection Act will be included. In Component 2 (capacity development), a range of cross-sector activities, such as those which contribute to human resource planning, provincial service delivery, legislative and international conventions and support for victims of crime⁴³ can include participants from the Department of Women's Affairs and other agencies involved in gender and law issues. In Component 3 (support for policy development), several stakeholders noted interest in the medium-term development of a single act to cover all aspects of family law (currently in a wide variety of other Acts) potentially called the Family Law Act. This would cover issues such as divorce and child custody, and if appropriately drafted, would reduce the complexity currently involved for women, men and children in the case of marriage breakdown. Research and other policy development activities to support this process will be included in this component. Activities which address issues affecting women's equal access to legal services and other aspects of gender and law should be prioritised in Stage Two of the Partnership.

The Governments of Australia and Vanuatu share a particular commitment to reducing violence against women. As noted above, around 70% of prisoners in Vanuatu have been found guilty of sexual and violent crimes against women and children. The AusAID report "Stop Violence: Responding to violence against women in Melanesia and East Timor" sets out Australia's priorities and actions to prevent and reduce violence against women in Melanesia and East Timor. The Partnership will prioritise

⁴³ This list is drawn from the MoJCS Annual Report May 2010 and includes priorities jointly identified.

opportunities to implement the recommendations of this report, in negotiations with GoV and other sector stakeholders.

Both GoV and GoA are committed to protecting the rights of children. AusAID's Child Protection Policy is applicable to this Partnership as personnel may come into contact with children (e.g. through work in legal offices/police prosecutions) or via future work on violence against women initiatives and/or community crime prevention initiatives for example. The Child Protection Policy provides guidance and minimum requirements for the Managing Contractor, which will be noted in the Contract with AusAID. The Law and Justice Partnership is in a position to promote child protection issues in its work with GoV through engagement on the Convention of the Rights of Children.

Finally, the Partnership will be committed to the inclusion of women and men in all governance, management, implementation, personnel recruitment and monitoring processes, as well as implementation of capacity development, research and monitoring activities. This means that specific efforts will be made to include women and men in all committees, panels, teams and workshops etc. as leaders, members, facilitators and supporters.

8. Partnership management

Annex 9 provides details of the proposed governance and management approach and structure for this Partnership, along with responsibilities and proposed membership of each group. The approach aims to align structures with existing GoV structures where appropriate and prioritise shared decision-making.

8.1 Governance

GoV has established a Heads of Agencies (HoA) group to oversee the implementation of its Sector Strategy and Action Plan. This group has met several times to develop the strategy (late 2009) and address initial implementation issues (June 2010). This group is led by the Minister for Justice and Community Services, includes the most senior representatives from GoV agencies in the sector and non Government agencies and clearly demonstrates a shared commitment to sectoral governance. This is the obvious group to give overall guidance to the Partnership. When the HoA Group gives particular attention and guidance to the Law and Justice Partnership, meetings will need to include donor/Partnership representatives (including AFP⁴⁴). GoA and GoV will need to negotiate an agreed process. For example, donor representatives could attend two designated meetings each year or be invited to participate in selected agenda discussions devoted to partner-related issues in each HoA Group meeting). The HoA Group is likely to meet several times per year and this is sufficient to provide sector-wide direction. Importantly this group includes the VPF and MoIA, so it is envisaged that guidance will cover the police elements of the sector.

⁴⁴ The upcoming design process for the VPFCBP will need to determine an appropriate governance structure in the light of GoA commitments to whole of government coordination.

It is envisaged that an agenda item be included for each Heads of Agencies meeting, which addresses donor contributions to the sector and gives advice to all donor programs.

Overall governance systems for the GoA and GoV Partnership for Development will also inform this particular sector Partnership.

Secretariat services for this group will be provided by MoJCS officials, including Partnership-funded personnel, as appropriate.

8.2 Management

Consistent with the guiding principles noted in Section 6 above, a Partnership Management structure should include a small, active joint decision-making team to interpret guidance provided by the HoA Group for implementation of Partnership activities. Details about the specific roles and responsibilities for this group need to be negotiated between GoA (including AFP) and GoV and finalised – Annex 9 includes some suggested details.

The following suggestions are provided to assist with this process. The group can be called the Law and Justice Partnership Management Group (PMG), would meet quarterly at minimum and would include the following participants⁴⁵:

- DG MoJCS (and/or appropriate MoJCS staff)
- VPF representative
- AusAID representative
- AFP representative
- Possibly plus MoJCS Coordination and Liaison Officer
- Possibly plus Managing Contractor Representative

The PMG will have responsibilities noted in Annex 9.

To manage the GoA inputs to this Partnership, AusAID seeks a new arrangement from that which has been used in the last decade. Three options were considered as part of the design process:

- Use of a single Managing Contractor (see 8.2.1 below)
- Use of a hybrid management system, using different coordinators for each element or group of elements (see 8.2.2 below)
- Continuation of current management arrangements (see 8.2.3 below).

Based on an assessment of the advantages and disadvantages of each option, the preferred option is for a single Managing Contractor, with use of other personnel recruitment mechanisms (such as Australian

⁴⁵ The Law and Justice Partnership Coordinator will provide secretariat functions (setting agenda, organizing and distributing minutes and following up actions between meetings) or delegate them as appropriate

Volunteer Programs and PACTAM (see 8.2.2 below) where appropriate. In addition, links between this Partnership and Volunteer Agencies should be made to maximize the opportunities for supporting agencies in the sector for example in relation to human rights, crime prevention and community awareness.

The selected Managing Contractor (MC) will be appointed, following a joint GoA and GoV selection process, for Stage One, with a possible contract extension. GoA and GoV will jointly assess and approve the proposed implementation plan for Stage Two. AusAID will then determine whether to proceed with a contract extension.

8.3 Transition and Planning Phase

GoV and AusAID are aware of the need for an appropriate handover from VLSSP to the new Program in 2012. GoV agencies should be actively involved in selection of TA personnel, so contracting processes will need to allow for this and for a realistic process of mobilisation for the next phase.

The shift to a different Partnership management approach is likely to have implications for relationships and therefore an impact on both the nature and extent of Partnership activities, including its scope, partnership arrangements and risks to ongoing success. Positive (professional, respectful and trusting) relationships between individuals and groups have been critical to successes achieved to date and need to be prioritized for the next phase.

8.4 AusAID Partnership support

To maximize the likelihood of a successful Partnership in the law and justice sector from 2011 to 2015, greater and more dedicated AusAID resources are required. Within AusAID in Port Vila, resources dedicated to managing the Partnership have been minimal, although when particular issues have arisen, more senior officers have been involved. The Program Officer with coverage of this Partnership is also currently responsible for three other complex Partnerships. This arrangement in part reflects the history of using another Australian Government agency, to implement the Partnership, on the assumption that adequate management and accountability systems would be in place. The new arrangement proposed above will require dedicated focus on partnership management, contract management, policy dialogue, donor coordination and other critical tasks. As a result a full time dedicated Senior Program Officer has been appointed.

AusAID also needs the capacity to broker and support the coordination of engagement by other GoA partners (i.e. AFP, Attorney General's Department, Commonwealth Ombudsman and others). As the largest donor in the sector, Australia should play a key role in donor harmonisation particularly through specific support for GoV leadership. Coordination of its own programs as well as others such as NZAP and World Bank is critical for the efficiency and effectiveness of the sector.

As noted above, specific donor coordination activities are necessary, not simply a commitment or an approach to donor harmonisation. Component 1 of the Partnership covers this issue, but AusAID staff will need to play an active role as this is not something that can be left to an MC and GoV. Explicit

coordination with the AFP in relation to the VAPP and with NZAP in relation to the correctional services program is particularly important. Relationships at this level are the responsibility of AusAID staff not an external MC.

9. Risk

A number of key risks are relevant to the achievement of expected outcomes of this Partnership. Annex 11 includes a detailed list of risks, their possible impact on the Partnership and suggested mitigation and management approaches. They are classified as follows:

- Risks in the design
- Management risks
- Risks in operating environment

The past history of VLSSP has highlighted a number of risks that have been managed to various degrees and have been considered in the design of the next phase.

High level risks have been assessed to include the following:

- The GoV will not be able to complete a costed implementation plan
- GoV leadership does not support sectoral approach throughout 2011
- Relationships between agencies in sector not sufficiently collaborative
- Excessive focus on Port Vila agencies (at expense of Provincial and kastom services)
- Breakdown in relationships between new management team and GoV and/or GoA
- Slow commencement of activities
- TA Personnel spend excessive proportion of time on direct work rather than capacity development
- Change of GoV (including in the 2012 election) and therefore a possible change in priorities

Suggestions to mitigate, monitor and manage these risks are summarised in Annex 11 but strategies have also been integrated into this design document more broadly, including:

- Clarifying the respective responsibilities of various organisations involved in governance, management, implementation and monitoring
- Development of systems which include all partners in decision-making
- Use of an approach to monitoring which supports the development of GoV's own monitoring system and relies on joint discussion of performance questions rather than unnecessary collection of data about legal matters (e.g. reduction in crime) that are at best only very weakly connected to broad coordination, policy development and capacity development processes
- Flexibility in approach to development and implementation of activities in Years 2 to 4

All stakeholders in the Law and Justice Partnership will be required to mitigate where possible, monitor and manage these and other risks. The Managing Contractor will be required to compile an assessment of risks and provide the Law and Justice Partnership with a strategy for high risks, at the end of the first 6 months, and will prepare an annual update as part of the Annual Plans.

The shift from the current management approach to a new management approach is a risk that needs particularly careful and senior attention from AusAID in the first six to twelve months. The risks associated with broadening the focus of the Law and Justice Partnership and prioritizing coordination are that the activities will become “watered down” and less clear to all stakeholders, so careful attention needs to be given to this during Stage One. The plan for Stage Two will need to ensure that there is clarity about the theory of change and the link between GoA support and explicit GoV objectives.

Section 10.6 below addresses steps for monitoring risks.

10. Monitoring and Evaluation

10.1 Overview

Monitoring and evaluation for the next phase of this Partnership will focus largely on:

- Supporting GoV to build its own M&E framework, capacity and systems related to the Sector Strategy and Action Plan
- Contributing information to overall assessment of the GoA-GoV Partnership for Development about progress
- Assessing changes in sectoral capacity and organisational capacity in the law and justice sector which may be associated with contributions during 2011
- Developing a more detailed M&E framework for Stage Two of the Partnership as part of the implementation plan for Stage Two.

Given there are two distinct stages of cooperation in this Partnership, there needs to be two different approaches to M&E – the first based on planned inputs during 2011-12 and their expected outcomes; and the second which will need to be based on the agreed set of activities, objectives and expected outcomes for the period 2013 to 2015. Objectives for each of the 3 Partnership components are listed in Section 6 above and these provide a basis for overall M&E, but it should be expected that there could be variations in the objectives for Stage Two depending on developments negotiated during 2011-12 between GoV and GoA.

The performance questions covering the overall Partnership are proposed as follows, and are based on the joint commitments made as part of the GoA-GoV Partnership for Development framework:

- Enhancing access to, and quality of, legal services to the government of Vanuatu and citizens in urban and rural communities, and strengthening links between the formal justice sector and customary law

- PERFORMANCE QUESTIONS: Is there evidence of increased access and improved quality of legal services? Consideration of access for men and women and those in urban and rural areas needs to be included.
- Are there stronger links between organisations involved in formal and *kastom* systems?
- Improving coordination of the law and justice sector
 - PERFORMANCE QUESTION: Are stakeholders more closely linked in setting the strategic direction of the sector?
- Improving delivery of police services through providing a safer and more secure environment for the community by the prevention and detection of crime through strong police/community relations
 - PERFORMANCE QUESTION: Do Vanuatu communities, both men and women, report increased confidence and respect for police services and better relations with police?
- Improving planning, budgeting, financial management, and human resource management
 - PERFORMANCE QUESTION: Are legal agencies which have participated in sector capacity development activities reporting improved self-management?
- Strengthening monitoring and reporting across the sector
 - PERFORMANCE QUESTION: Is there evidence (reports) of stronger monitoring systems across the sector?

The Partnership performance questions covering Stage One are proposed as follows:

- Has GoV produced costed, detailed plans for the sector (and key agencies?) including appropriately pitched and resourced monitoring approaches?
- Has there been an improvement in the coordination of donor inputs to the sector and has this assisted GoV leadership in the sector?
 - Is there coordinated governance across all major Australian contributions to the sector and evidence of a more coherent overall contribution?
- Is there an agreed GoV capacity development strategy for the sector being prepared?
- Is GoV receiving relevant and useful research and other information to assist Heads of Agencies with policy development in the sector?
- What are the policy development priorities for the sector and how will they be implemented over the medium to long-term? What levels and types of external support are required to ensure these priorities are met?
- What information has been collected and analysed about gender equity aspects of the sector and the partnership? What gender issues have been identified as priorities for the medium-term work of the Partnership?
- Is there an agreed detailed plan to cover Stage Two of the Australian Partnership in this sector?
 - Has the design been developed with an appropriate monitoring system that is linked to the GoV sector monitoring system?

- Has the plan met quality assurance criteria (Annex 16 provides details) and been approved through a peer appraisal process, comprising GoA and GoV nominated officials and 2 independent appraisers.

These questions will be addressed by including them as agenda items on meetings of the Governance and Management Groups in the latter half of 2011, supported by information gleaned by the MC through deliberate monitoring interaction with stakeholders based on the above questions. Annex 7 is an initial M&E framework encompassing these elements. A more detailed M&E Plan will need to be developed by the Managing Contractor (Monitoring Specialist) and the Monitoring Officer, in consultation with the Heads of Agency Group during 2011 consistent with the plan for Stage Two.

10.2 Sector Strategy and Action Plan

The Law and Justice Sector Strategy and Action Plan includes some detailed “results indicators” for each of the strategies and actions identified under the seven pillars. These indicators do not currently include elements of quality, quantity or time, although they are set against dates for each action. The action plan includes a large number of action-specific indicators, such as “training conducted” or “legislation developed.” This kind of information is useful to assess whether tasks are completed but will be inadequate to assess the quality and extent of achievements and their respective outcomes. To provide meaningful information for GoV about progress and achievement of overall outcomes, some higher level performance questions may be useful as well as some more selective and detailed indicators at task levels. Some specialist assistance to GoV during 2011-12 should assist with the development of an appropriate performance system for the whole sector as well as support individual agencies with their own M&E processes. The key will be to assist GoV to create a manageable and realistic monitoring approach which matches the context and resource envelope, and provides valid and useful information about selected performance issues.

10.3 Purposes of Partnership monitoring

The overall purposes of monitoring for the Partnership, in the following priority order, will be to:

- Generate learning about what is working well in the Partnership and why, in order to motivate sector stakeholders towards positive change
- Assist Partnership governance and management decision-making (i.e. to inform subsequent decisions about what to support and which approaches to promote)
- Support Vanuatu capacity development in monitoring in the law and justice sector
- Increase use of and strengthen GoV monitoring systems
- Develop shared understanding about the contribution of the Partnership to change in the sector
- Account to ni-Vanuatu for aid funds spent in their country
- Account to donors for funds spent

10.4 Approaches to Partnership monitoring

To achieve the above purposes, the monitoring approach needs to:

- be realistic, feasible, practical and well-targeted

- be appropriately resourced, budgeted and scheduled
- recognise that there are different kinds and levels of interest in M&E information and therefore it is unrealistic to expect one simple system to cover all aspects and meet all needs
- recognise that there is not likely to be a shared view of what success in law and justice looks like among stakeholders from different perspectives, because of the diversity of the stakeholders and the complexity of the sector
- recognise that there is a significant distinction between the principles and practices for monitoring changes in capacity (process) and monitoring changes in specific law and justice service delivery (results)
- provide opportunities for stakeholders to interpret information from different sources through mutual learning
- focus on understanding the contribution of activities towards higher level outcomes (rather than on a process of attribution between activities and specific results)
- include specific M&E processes for individual activities which are based on clear outputs and indicators
- acknowledge that it is not feasible or sensible to add up the results of varied activities to produce a single “Partnership result”
- emphasise learning through action and reflection, therefore there is a tolerance for mistakes being made, as part of learning processes
- recognize that monitoring information may need to be reported and communicated in different ways for different stakeholders
- reflect the flexible, comprehensive and diverse nature of the Partnership
- promote and be dependent on GoV ownership

This list of points is clearly extensive and ambitious and may not be comprehensively achieved, but should guide efforts by the Partnership.

10.5 Structure of M&E

The structure of M&E is provided by the 3 Partnership components, which are expected to remain valid for the period 2011-2015. The focus of M&E for each element is summarized in the following simple structure:



The overall focus is on the results achieved by the Partnership. Three sources of information will contribute to broad understanding of results: indicators collected by GoV to inform them of progress against sector and agency plans; indicators collected by the Partnership inform GoV and GoA about progress of Partnership activities; qualitative information about overall performance. The performance questions are listed in the M&E Matrix (Annex 7).

Assessment of the **quality of sectoral coordination and the quality of partnerships** will be undertaken by the stakeholders involved in management, coordination and implementation themselves, through regular interaction at meetings. Partnership facilitators should encourage reflection on what is working well in terms of the gradually strengthening sectoral approach, recognizing the strengths that are developed over time and acknowledging that for all stakeholders, this is a new process. Qualitative self-reflection and discussion about the quality of relationships among stakeholders within the sector and with other donors is important also. The most appropriate monitoring mechanism is simply to add an agenda item to all meetings about how the respective partnerships are viewed and what can be undertaken to strengthen them.

Assessment of the **nature and extent of capacity development** also requires qualitative analysis. In 2011-12, there will not be sufficient time to develop a comprehensive capacity development plan for each agency, implement it and assess achievements, but at minimum efforts should be made to contribute to thinking about capacity development within each agency and across the sector. This

should include the development of some guidance on capacity development approaches for the advisers and their respective agencies, some plans for 2011-12 and the calendar of capacity development events which will be supported by the Partnership. In terms of monitoring, a useful activity in 2011-12 will be to develop an appropriate capacity assessment tool for each agency in the sector, which maps existing strengths and identifies priorities for future development. It should be possible to apply this tool to generate a good picture of existing capacity before the end of Stage One. The findings from this assessment (baseline information) should then be used to inform capacity development planning for the remainder of the Partnership as well as to set indicators for short-term and longer-term monitoring. Recognising the diversity of agencies in the sector, it may be appropriate to attempt to undertake a capacity assessment of the whole sector, with limited elements. The assessment tools used will need to assess gender and development issues and to account for changes in capacity to deliver services to women and men, girls and boys, differentially across the country.

Assessment of the *quality of policy development activities* is notoriously difficult because policies vary widely in the way they are conceptualized, developed, implemented and understood. The Partnership is not intended to directly develop policies in the sector, but rather to contribute information which will enable GoV to undertake its own policy development processes. Qualitative methods will be appropriate for this element of the Partnership.

More specific details of the “what, how, when and who” of the monitoring of this Partnership will be developed in a participatory way during Stage One by a M&E Specialist. The process should be facilitated and include collaboration with all stakeholders, to ensure that M&E approaches are consistent with local priorities, integrate gender equality, are feasible and will genuinely assist participants in the Partnership to “make sense of” information generated through the M&E Program.

10.5.1 Monitoring of capacity development

There are many challenges to assessing or measuring changes in capacity of organisations, as envisaged under Component 2. The main challenge arises when there is a lack of clarity about what capacity means in a particular context. As noted above, capacity can mean different things in different contexts and cultural influences on perceptions are significant, for example, good leadership in one cultural setting could be perceived as poor leadership in another. Also, women and men may see capacity issues differently, depending on perceptions about careers, family obligations, relationships between senior and junior staff etc. Capacity can refer to an individual’s or an organisation’s “potential” and trying to measure this is very challenging. Further, there is no straightforward connection between the ability to do something and the actual result. For example, a team of people may have the ability to implement their plan, but many other factors need to come into play for the plan to be successfully achieved, some of which may be outside the control of the team, such as the enabling legal, political or social environment, or the role of other teams/organisations. It is sometimes difficult to determine whether capacity will actually translate into something substantial and sustainable. The M&E task in a

context such as this is therefore challenging. AusAID has access to lessons learned from other programs to assist in this regard⁴⁶.

Some ways to assist with assessing capacity include developing a shared understanding about:

- what elements of capacity in a context need to exist
- the nature and extent of existing capacity
- the expected changes in capacity
- how cultural values influence perceptions about existing or desired capacity
- the processes of capacity development to be used
- what is going to be assessed – changes in capacity or changes in the results brought about by capacity (for example, will we measure whether the Office has the skills to write a strategic plan, or will we measure the quality of the strategic plan?)
- the most appropriate tools for understanding changes in capacity.

10.6 Methods and tools

The Partnership will use a limited range of tools to suit the various levels of monitoring. The mix of tools will differ for each element (e.g. a survey for gathering qualitative information from many people; an assessment of minutes from consecutive meetings to understand progress in a policy development process). The M&E Specialist and local participants should use those tools they are familiar and comfortable with and should consider information management requirements in respect of collection and use of performance data.

All methods and tools should emphasise the participation of relevant stakeholders, not only in terms of data provision, but also data collection and analysis, where appropriate.

A detailed M&E Plan, developed by the Monitoring Specialist (international) and the Monitoring Officer within the first nine months of the Partnership, will detail specific details of tools, responsibilities and timelines, reflecting the diversity of contexts, issues and levels of monitoring information needed by different stakeholders.

10.7 Monitoring risks

Section 9 above and Annex 11 provide details of the risk assessment for this Program and proposed strategies to mitigate and manage risks. Risks in the design approach, in the management practice as well as risks in the operating environment are all included, and all of these need to be monitored throughout the next phase of the Program. In addition, there is a requirement by AusAID for monitoring of the Partnership's engagement in Child Protection issues⁴⁷.

⁴⁶ See for example Linda Kelly's work "Managing and Monitoring of Capacity Development: Guidance for AusAID PNG staff" 2009

⁴⁷ See AusAID's Child Protection Policy available on www.aid.gov.au

The key responsibility for monitoring risks at different levels lies with the Governance and Management Groups. The Governance Group, including GoV and GoA senior officials, will be responsible for periodic monitoring at a “strategic level” to ensure the environment for the Partnership is still conducive for its implementation as planned and that the major risks are being appropriately managed by all stages. An agenda item on risk monitoring will be included in each meeting of the Governance Group. At the Partnership Management Group level, members will be responsible for regular monitoring of risks associated with management and implementation of all Program activities. They will also be responsible for implementing mitigation strategies for direct Partnership implemented activities and for ensuring that other implementers are properly briefed and supported to manage risks within each activity.

In summary, tools for monitoring risks include the following:

- annual review of the Risk Matrix (Annex 11) by the Governance Group, focused on high level risks and design risks
- quarterly discussion of the risk matrix by the Management Group, focused on management and implementation risks
- monthly review of the risk matrix by the Managing Contractor, in consultation with key stakeholders at the time

10.8 Resources for M&E

Given the importance of M&E for both the law and justice sector overall and the Partnership in particular, as well as the need to meet a diverse range of M&E information requirements and principles, the Partnership will fund two M&E positions. These positions will be filled by an international Monitoring Specialist (with short-term inputs over the life of the contract) and a full-time Monitoring Officer. Both will be based in MoJCS and work across the sector, and they will work collaboratively to achieve the dual responsibilities described above. The international Monitoring Specialist (see Position Description at Annex 10) will support the Monitoring Officer to develop systems to monitor the Sector Strategy and undertake monitoring across the Sector, as well as take key responsibility for monitoring systems and processes within the Partnership. The Monitoring Specialist will work with a variety of stakeholders and will need to carefully manage competing requirements. The Monitoring Officer will need to comply with GoV public sector systems related to monitoring overall as well as support sector agencies to develop customized processes to suit the Sector Strategy.

Collaboration between the two monitoring personnel will allow for sharing of different perspectives on monitoring, capacity development on M&E approaches relevant to the sector in Vanuatu, trialling of different approaches, shared responsibility for complex processes of data collection, training, analysis, reporting etc.

It is important for representatives from GoV, GoA, sector partners, advisers and other donors and other short-term specialists to be involved in various M&E processes in order to obtain a mix of perspectives and to provide opportunities for capacity development in M&E.

10.9 Reporting

The following reports will be prepared to capture and analyse monitoring information and will be submitted to the GoV Heads of Agency group and copied to AusAID:

- baseline report (see 6.2.3 above)
- 6-monthly reports and a completion report by MC to GoV and GoA, including detailed expenditure information in vatu
- Annual Plan for activities in Stage Two based on annual negotiated planning process with all stakeholders (process to be documented by Managing Contractor by September 2012, based on current AusAID guidance)

11. Sustainability strategy

Given the decade of cooperation in this sector between GoA and GoV to date, and the myriad of changes and issues involved in the complex law and justice sector, much has been learned about how to contribute to sustainable benefits for the people and GoV. International experience has generated a great deal of evidence about factors which are likely to contribute to sustainability and these have been incorporated into this design where appropriate. For example, the Partnership design emphasises GoV leadership and ownership through alignment with GoV strategies, plans and systems, since these elements are known to be crucial for sustainability. Similarly the Partnership emphasises capacity development at institutional and sectoral levels rather than individual levels, thus contributing to greater sustainability.

In relation to any infrastructure funding provided, the Partnership needs to pay very careful attention to affordability and recurrent cost financing implications. It is not envisaged that this Partnership would be a mechanism for large scale infrastructure financing, but rather small scale renovations and refurbishment to existing offices and perhaps, depending on emerging GoV priorities, construction of small buildings. Where the latter is approved by the Governance and management structures of the Partnership, explicit attention will be paid to ensuring ongoing maintenance, budgeting for utilities, and other recurrent costs associated with construction. Priority will be given to the use of local contractors, labour, materials and systems, as well as to the involvement of local stakeholders in determining the style and quality of buildings.

Factors in the Vanuatu socio-political context and the current aid environment will both contribute to long-term sustainability and potentially undermine the achievement of sustainable benefits. Key contributing factors include:

- Commitment by GoV leaders/individuals at various levels to a just and fair Vanuatu, with delivery of appropriate and affordable quality services

- Recognition of the value of community leaders in negotiating through challenges and inevitable conflicts and the scope for strengthening policies and practices
- Commitment by individuals to use their professional skills to provide legal services in the public sector in the “public interest”
- Achievements to date in public sector reform and organisational development
- Achievements to date in supporting GoV capacity development processes in the law and justice sector
- Good prospects for steady and improving economic growth

Some potential undermining factors include:

- GoV medium term fiscal constraints and public sector planning and budgeting capacities
- Levels of corruption in Government affecting allocation of resources
- High, albeit decreasing, population growth rates which will increase demand for law and justice services which may outstrip capacity to deliver services
- Significant inter-island transport and logistics challenges associated with geographical isolation and access to law and justice services
- Need for ongoing senior legal expertise in the long-term, mitigating against removal of TA personnel

Overall, this Partnership focuses on supporting the achievement of GoV priorities, as expressed in relatively recent and ambitious plans. This reflects a commitment to sustainability within the local context and efforts to support the GoV work through new ways of planning, budgeting, working and monitoring. A balanced approach to the provision of small numbers of specialized personnel recognizes some of the ongoing challenges of accessing high quality advice for GoV and the Vanuatu population, while acknowledging strong evidence of GoV leadership and ownership. The most important strategies for supporting sustainability are related to Vanuatu leadership and ownership of the law and justice sector, at all levels and both within and outside the Government. Continuous efforts by Partnership personnel are needed to promote local ownership and leadership in the sector. Maximising inclusion of GoV and other Vanuatu participants in Partnership implementation is the most critical method to achieve this. Constant consideration of sustainability issues is helpful also.

Other design features supporting sustainability as referred to through the PDD include:

- Provision of regular opportunities for dialogue between GoV and other sector stakeholders about the interface between formal and informal justice issues, policies, service delivery management etc.
- Provision of opportunities for male and female GoV officials to facilitate and participate in the full range of processes associated with sectoral policy, program development, implementation and monitoring
- Provision of opportunities for GoV officials to work collaboratively with others with an interest in and skills in law and justice issues and activities (civil society organisations, churches, chiefs, research institutes and universities, private sector agencies etc.)

- Promotion of Vanuatu efforts to strengthen legal training options and other ways of increasing the number and quality of ni-Vanuatu legal officers

Finally, the issue of an “exit strategy” needs to be considered in the context of long-term sustainability. At the time of this design, there is no obvious set of factors which will ensure that Vanuatu has the capacity in 2015 to be self-sufficient in terms of all legal requirements of an independent country in an increasingly complex globalised environment, and where there is a healthy and well-understood interaction between formal and kastom law, although there are plenty of indicators to suggest that the country is moving in a positive direction towards these outcomes. The size of Vanuatu in population terms and the relatively small pool of educated ni-Vanuatu to manage the complex legal issues facing a nation mean that long-term donor engagement focused on capacity development is both likely and appropriate. Australia has a long-term commitment to the sector but will probably wish to revise the nature and extent of its partnership towards the end of 2015. If there is a desire by GoA to reduce key elements of the Partnership, GoV should be given at least one years’ notice. The key factor which should be considered if an exit strategy is required relates to the extent of GoV leadership. If GoV leadership it is consistently strong and GoV seeks ongoing engagement with donors, then an exit strategy should be delayed; if GoV leadership consistently low and GoV relies excessively on donors, then some of exit strategy should be mooted; if GoV leadership is patchy or uncooperative, then a negotiated change in approach should be developed)

Stretem Rod Blong Jastis

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Annex 1: Vanuatu Law and Justice Sector Context

1. Constitutional Framework

The Republic of Vanuatu is a parliamentary democracy based upon the Constitution of Vanuatu, enacted on 30 July 1980. The Constitution provides for the separation of powers and establishes three branches of government.

The Executive branch consists of: the President who is head of state; the Prime Minister, who is head of the government and is elected by Parliament (usually the leader of the majority party or coalition); and the Council of Ministers appointed by the Prime Minister and responsible to the Parliament.

The Legislative branch consists of a unicameral Parliament of 52 members elected by popular vote for four year terms.

The National Council of Chiefs (Malvatumauri) is composed of chiefs elected by their peers and advises Parliament on all matters relating to custom and tradition. It can make recommendations for preservation and promotion of ni-Vanuatu culture and languages. By tradition, *Kastom* chiefs exercise customary authority within local communities and the Malvatumauri has a constitutional role at village, island and provincial levels.

The Judicial Branch consists of the Court of Appeal, the Supreme Court, Magistrates' Court and Island Courts.

2 Vanuatu Law and Justice Sector -- breadth and diversity

A recent analysis of State building and change in Vanuatu found that it is an on-going process that has entailed a dual challenge: *the transformation of the colonial-era administration into a ni-Vanuatu-managed structure; and the development of the functions of a modern state. Both processes have taken place against the backdrop of a very limited human resource base. The administration is critically dependent on a few key individuals.*¹

These challenges are reflected in the law and justice which is also characterized by multiple customary legal (and linguistic) systems, a range of out of date and sometimes contradictory and inappropriate legislation, a constitution that blends customary and formal legal systems and a relatively small population spread over a range of islands some of which are remote and inaccessible. The result is an urban focus on Western-style formal justice institutions and a rural focus on informal or *kastom* governance. The sector is very broad, including the customary legal systems, the state based formal legal system and a relatively large number of small non state actors.

Public Sector and Governance Context

The legal system is part of a package of approaches to improve governance practice, leadership and public sector management, and there is potential to enhance this. The Government of Vanuatu's Priorities and Action Agenda 2006-2015 places the legal sector within the objective of

¹ Marcus Cox, Hannington Alatoa, Linda Kenni, Anna Naupa, Dr. Gregory Rawlings, Nikunj Soni, Charles Vatu, Senior advisers: George Sokomanu, Vincent Bulekone: *The Unfinished State, Drivers of Change in Vanuatu*, AusAID 2007, p III.

“providing stable institutions” and highlights the importance of addressing “the weaknesses that have been identified in the legal sector.” It notes that “actions will be focused on the judiciary, the role of the Ombudsman’s Office and the three public legal offices of the Public Prosecutor’s office, the State Law Office and the Public Solicitor’s Office.” (p 23). Other than a short list of general strategies, minimal further detail is provided in this document.

Within the public sector, complex, and powerful webs of incentives and disincentives drive decision-making, particularly at the political level but also amongst senior managers in the public sector. These are difficult for foreigners to understand but are relevant to perceptions of leadership, risk taking, public sector reform and capacity development, so need to be factored into activity designs and approaches. Cox *et al* write that:

*Educated ni-Vanuatu in public service have a good understanding of the norms, values and practices that govern a modern administration, but at the same time operate within a traditional set of values and attitudes towards knowledge and authority. They vary in their ability to negotiate the differences between traditional practices and public office. Senior figures may hoard knowledge and skills, rather than passing it on to their colleagues and subordinates... Junior staff may be reluctant to take initiatives that implicitly challenge their place in the hierarchy. This behaviour may make organisations appear from the outside to be slow and conservative, with a tendency to follow the path of least resistance, but it has cultural and social legitimacy in Vanuatu.*²

They point out that "there is debate as to whether accountability institutions of the adversarial type favoured in Western democracies are appropriate or effective in the Vanuatu context. Some observers believe that it might be possible to develop accountability institutions that take a more Melanesian approach, based on behind the scenes negotiations rather than open confrontation." ³

Interface of Customary and Formal Legal Systems

The Constitution recognizes the role of custom and customary law. For example in the absence of formal laws, the Supreme Court is mandated to decide cases according to natural justice and wherever possible in conformity with custom. (Article 47.1). Island Courts administer both formal law and the customary law of their jurisdictions. Article 51 of the Constitution envisages that Parliament will legislate on how customary rules are to be ascertained. To date this has not been done.

The CEO of the Malvatumauri National Council of Chiefs describes two systems operating like the two major parts of an outrigger canoe, where both sides need to be effective, and where one is weak, the other needs to be strong. He identified that in some cases and on some occasions, there needs to be adequate linkages between the two systems, but they cannot necessarily be “integrated”. Those trained in formal legal systems, based primarily on “western liberal democratic” ideas of law and justice, may see *kastom* systems through a different lens, but in Vanuatu there is recognition of their value in certain circumstances, particularly for settling disputes that could otherwise have entered the formal system. This is relevant to the

² Cox *et al*, pp 36-371

³ Cox *et al* p. 30

observation that Vanuatu has approximately half the rate of prisoners per head of population that would be found in the Pacific and certainly lower rates than Australia and New Zealand.

Kastom and other informal justice systems include the role of traditional leaders in preventing crime, settling conflicts and maintaining harmony at community levels, particularly in villages, where between 70% and 80% of people live. The roles of chiefs in settling land disputes for example is significant, and recent activities⁴ to test the efficacy of chief's involvement in various village based law and justice systems suggests there is potential for increased use of this approach.

Interpretations of the interface between the formal and informal systems vary widely among stakeholders, including between men and women, young people and older people, as well as between members of the judiciary and the legal profession. This is both a strength and source of challenge. As noted above, the rate of incarceration is low and a key factor in this is the role played by chiefs in maintaining harmony at community level. In civil cases, the choices offered to ni-Vanuatu people for settling differences seem a good way of minimizing excessive use of expensive formal legal systems.

On the other hand, ni-Vanuatu activists and experts concerned with issues related to individual rights and gender equity express concern and some skepticism at the ability of chiefs (who are mainly male) to adequately address their concerns.

Thus, depending on the lens one uses, the pluralist legal context could be seen positively or negatively. There is clearly an opportunity to support the strengths of the systems and the links between them where they suit the Vanuatu context. While it may be unrealistic to develop policy that will address all short-comings of this context, there is certainly value in supporting GoV to work through a process of maximizing benefits to the people and the Government. The role of donors in this context needs to be carefully considered as few western (donor) countries have extensive comparative advantage in the development and successful operation of national pluralist legal systems.

Given the reality of the public sector resource envelope and the presence of extensive community-based systems for maintaining harmony at community and national levels, it is clear that some form of hybrid system is worthy of consideration in Vanuatu. However, at least one expert with extensive experience in the region warns that customary legal systems should only be "recognized and supported when they are consistent with the rule of law and respect for human rights."⁵ This debate has yet to be resolved in Vanuatu and is hindered by a lack of systematic research and documentation of the customary systems.

The major issues facing the criminal justice system in 2010 involve violence against women, with reports that around 70% of current prisoners are being punished for sexual assaults against women and children and other domestic violence incidents. A large proportion of civil cases

⁴ For example, mention was made of a small pilot by Malvatumauri in Pentecost where chiefs have been supported to monitor and supervise ex-prison detainees after their return from prison in the interests of saving funds associated with travel for urban-based probation officers.

⁵ Sinclair Dinnen, Interfaces between Formal and Informal Justice Systems to Strengthen Access to Justice by Disadvantaged People, UNDP, 2003. p 3

relate to land disputes and fraud. Both of these issues highlight the tensions between customary and western style legal systems and concepts of accountability.

The formal legal Sector

The current structure of the MoJCS was only established in 2008. Before 2009 some of these agencies reported directly to the Office of the Prime Minister and the transition to MoJCs is not yet fully operational. The MoJCS is also responsible for sectoral coordination (see below) and thus is responsible for liaison with other state actors in the sector, including MoIA and the State Law Office as well as a range of NGOs and national committees. At the time of this design mission, the MoJCS had one professional staff member working under the Director General. The Ministry was in the process of advertising for two new staff.

3. Sector Strategy -- achievements and challenges

The breadth of the sector is reflected in the first **Vanuatu Law and Justice Sector Strategy and Action Plan** (2009-2014) which was developed in late 2009, under the leadership of the MoJCS with funding support from VLSSP. Section 4.1.4 of the PDD provides details.

Some of the challenges and opportunities for sectoral coordination

Strongly independent judiciary

One of the major achievements of the legal sector of Vanuatu is a strongly independent judiciary that has shown itself capable of making decisions contrary to the wishes or interests of the government of the day. The judiciary operates substantially outside the public sector context, on the basis of Constitutional status and perceptions about judicial independence from public sector reforms. This means that the prospects for inclusive approaches in broader public sector reform are somewhat limited. However, the Chief Justice is participating in the Heads of Agency group.

The Legal Profession and legal education

There are currently about 60 private lawyers operating in Port Vila, most of whom are either foreigners or ni-Vanuatu with overseas qualifications. Whether true or not, there is a general perception that private lawyers have higher earnings than salaried public sector lawyers. The profession may not universally support improved capacity in the public legal sector as private sector businesses have previously profited from litigation against poorly defended GoV agencies.

Few ni-Vanuatu are undertaking law degrees, with only 5 to 6 students graduating annually from the University of the South Pacific in recent years. This can be attributed to the limited number of Government and donor scholarships available for legal studies as well as a preference to undertake scholarships that allow them to study overseas.

Questions have also been raised regarding the quality of the USP law degree. The recently enacted Legal Profession Bill will strengthen regulation of the profession and provides for mandatory continuing legal education, a disciplinary committee, trust accounting and sets out procedures for the Law Council regarding admission. If properly resourced and supported, this Act, once enabled, should assist to relieve the profession of difficult tasks such as admissions that are currently taking up to two years to be considered. A recently established Law Society will potentially take responsibility for regulating the profession and for continuing legal

education, possibly in collaboration with the school of law of USP. However, the Law Society is still in the process of establishing itself and it may be some time before it is ready to take a lead in CLE.

Legislation

A complex and sometimes inconsistent legislative framework is another legacy of the colonial period and possibly exacerbates the perception that the formal legal system is culturally inappropriate. Speaking at a 2008 conference on law reform, the Attorney General described the legacy of different sets of outdated legislation from the French and British administrations, parts of which are still applicable. Then in the immediate aftermath of independence a range of inappropriate or incomplete legislation, often directly "transplanted" from other jurisdictions, was enacted.⁶

Law makers therefore face the challenge of having to update many existing laws as well as enacting a range of new legislation. This can lead to problems in prioritization as well as heavy demands on the drafting unit of the State Law Office. Donors and NGOs have sometimes added to this problem when they have undertaken reviews of legislation or drafted "suggested" new laws (which are common initial activities under reform projects) without involving the State Law Office or appropriate policy staff in the Prime Minister's Office or the relevant ministry.

Case and Practice Management

Case management procedures across the Government legal sector are generally poor (although it has been noted by the judiciary and internally that the State Law Office has markedly improved in recent years). This ranges from failure to comply with conference directions, to failures to appear for trials and mentions. Poor listing practices by the courts and the inability of the police to assist with the services of summonses compound this situation as well as the lack of appropriate IT systems across the board to support practice management.

Alternative Dispute Resolution

Customary dispute resolution practices are widely used throughout Vanuatu. There is however no formal mediation services for the resolution of disputes. Despite legislative provisions for court referred mediation, these are not widely utilised as there are no accredited mediators in the country and no system of attaining such accreditation.

Provincial Service Delivery

GoV's Priority Action Agenda emphasises the need to ensure that government services are available to all ni-Vanuatu, in every province. Currently law and justice services are essentially only accessible on the island of Efate and to a lesser extent in Santo. The PPO in Santo has not been staffed by a full time prosecutor for several years and apart from the Corrective Services department, all other GoV legal institutions in Luganville are housed in rented accommodation. The case loads of both the Magistrate and Supreme Court in Santo are relatively comparable to Vila however there is only one Magistrate and one Supreme Court Justice servicing the island.

⁶ Paper delivered by Mr Alatoi Ishmael Kalsakau, Attorney General of Vanuatu, to *Australasian Law Reform Agencies Conference, 2008* (prepared with assistance of Michelle Brazel, VLSSP Team Leader)

4. Profile of Key Law and Justice Institutions

Further illustration of the human resource challenges facing the sector can be gleaned from the following profiles of the key legal institutions with which VLSSP has cooperated:

The State Law Office (SLO), established in 1998, replaced the Attorney General's Chambers. It is headed by the Attorney General who is a statutory officer (not minister). SLO is independent and not subject to the direction of any person or body and it sits administratively under the Prime Minister's Office. Its role is to provide impartial, high quality legal advice, representation and drafting services. Matters may be referred to the SLO by the President, the Council of Ministers, the Prime Minister, a Director-General of a Ministry or a Director of a Department.

Under the Attorney General the Solicitor General (currently vacant position) heads the Litigation Unit and the Parliamentary Counsel heads the Drafting Unit. There are also Corporate Services, Financial Intelligence and Advice units. Professional staff currently include:

- Five State Counsels (three female)
- One Parliamentary Counsel (female)
- Six drafters (one female)
- Two staff of the Financial Investigations Unit
- Two interns
- Six Administration staff

The Public Prosecutor's Office (PPO) was set up under Article 55 of the Constitution which creates the position of Public Prosecutor who is appointed by the President on the advice of the Judicial Services Commission.

The function of the PPO is to institute and conduct criminal proceedings on behalf of the government and to advise the government on criminal legal reform issues. Present staffing of the PPO in Port Vila consists of the Public Prosecutor, Ms Kayleen Tavoia, three Assistant Prosecutors, one intern, one case manager and two administrative staff (one female). There are two administrative staff in Santo (one female).

The PPO is also responsible for the **State Prosecutions Department (SPD)**. State prosecutors are seconded from the Vanuatu Police Force. Their role is to conduct prosecutions in the Island and Magistrate's Courts and to conduct preliminary inquiries for matters that are to be tried at the Supreme Court level. They are also responsible for serving various court documents.

There is no defined division of responsibilities for the SPD between the Public Prosecutor and the Vanuatu Police Force which results in the SPD being under resourced and poorly supported. There are currently nine State Prosecutors. Five are based in Port Vila, one each in Malekula and Ambae and two in Luganville.

The Public Solicitor's Office (PSO) is established under Article 56 of the Constitution. The Public Solicitor is appointed by the President on the advice of the Judicial Service Commission and is currently vacant. The function of the office is to "provide legal assistance in both criminal and civil matters to needy persons," or to any person as directed by the Supreme Court. Current

staffing consists of one Acting Public Solicitor, six legal officers (one female, one based in Santo, one intern (female), one paralegal and five administrative staff (one female and two based in Santo).

Annex 2: VLSSP Program History, Achievements and Lessons Learned

Program History

The VLSSP began as a result of a request in 1996 by GoV to GoA for assistance to key public legal offices. The project design was completed in August 1999. A decision was taken to contract the implementation of the project to a State Attorney General's department, in order to encourage twinning arrangements with similar Australian institutions. NSWAGD was awarded the contract. Phase I of the project was a 2-year input running from mid 2000 until mid 2002, with a total budget of approximately AUD1 million.

Activities were developed on the basis of a Strategic Review of the Vanuatu Legal Sector, undertaken by NSWAGD in June 2000, and the assistance was primarily in the form of in-line advisers. Phase II commenced in July 2002 for an initial two years, but was extended until December 2005, with total expenditure of around AUD4.5 million. As part of the transition between phase II and III of VLSSP, GoA proposed an integrated management and governance arrangement with VPFCBP, but the GoV preference at the time was to keep the arrangements separate (refer VLSSP MTR report, page 5).

In Phase I and II support was structured as three separate projects focusing largely on restoring or enabling the public legal institutions to carry out basic roles and functions. A range of support strategies were employed including the use of both long and short term advisers to provide technical assistance and in line support in areas of administration, management and legal. Programs to enhance legal skills and encourage lawyers to work in the public sector were also introduced such as an overseas placement program and an internship program. The three offices were also assisted to procure basic office equipment and resources and the PSO was assisted to relocate to new premises.

During the design process for the Phase III program in 2004/2005, it was recognised that there were several duplications in the activities being provided through three separate programs. It was also noted that the program structure was unintentionally discouraging the offices to work together. Phase III therefore adopted a different approach. The three institutions were brought together under the one program and as basic office functions were being adequately maintained, the program was structured around business plans as a means of encouraging ownership of reform priorities and to provide a more strategic focus.

VLSSP phase III goal was "to ensure the sustainable development of Vanuatu's law and justice sector". The purpose was "to support legal and administrative priorities of the three public legal offices in Vanuatu to improve access to, and confidence in, the justice system of Vanuatu." Phase III was designed as a 5-year input, with a total budget of AUD10 million. It was designed with a high degree of flexibility, with individual activities to be identified through an annual planning process led by the three legal offices.

Although titled a "legal sector" program, up until 2009 support was primarily focused on three public legal institutions - the State Law Office (SLO), Public Prosecutor's Office (PPO) and Public Solicitor's Office (PSO). Phase III of VLSSP was punctuated by a mid-term review in 2008 which recommended a range of adjustments in focus and structure of the program.

The review report recommended a significant reorientation for the remainder of Phase III that involved moving from an exclusive focus on the three legal offices towards the development of the sector as a whole. It proposed that the Ministry of Justice and Social Welfare would become the key counterpart for implementation with the aim of building the capacity of the Ministry to lead on sectoral policy issues, organisational development and aid coordination.

The program was originally designed to consist of four components with the following objectives:

1. To improve corporate governance of the Public Legal Offices including the development/ revision of policies.
2. To enhance human resource and financial management policies and procedures to improve the effectiveness of resource use within each of the Public Legal Offices.
3. To enhance case management and IT systems within each of the Public Legal Offices.
4. To enhance the professionalism of legal staff within each of the Public Legal Offices.

From 2006 to June 2008 activities supported under the program budget included:

- *Support for Advisers:* At the time of the review there were five advisers working within GoV legal sector offices including the State Law Office (2), the Public Solicitor's Office (1), Public Prosecutor's Office (1) and the State Prosecutor's Office (1). In 2006 the Team Leader moved from Australia to Port Vila and also started to provide a range of facilitation and advisory services across the three agencies.
- *Infrastructure development:* The project funded renovation of the office of the State Prosecutors' Department and reviewed infrastructure plans of the other offices.
- *Training and development:* This included short term placements in government legal offices in Australia, participation in in-Australia training (e.g. Bar Readers course) and in-Vanuatu training and capacity building events.
- *Procurement:* Some office and operational equipment, a car for the Police Prosecutor's office and legal materials were purchased with program funds.
- *Other activities:* The program supported a range of activities including a Community Legal Clinic, Law Week, some support for court tours and conferences and small grants to PaCLII and the Ombudsman's office.

The findings of the Mid Term Review are summarized in Annex 12. As a result of the review's recommendations the four components were replaced with three streams (see below). Changes included increased funding to support sectoral coordination by the Ministry of Justice and Community Services (MoJCS), increased emphasis on capacity building rather than in-line support by advisers and assistance to other legal offices and institutions across the sector. Major activities under each stream included:

Stream 1: Targeted advisory support to the three public legal offices

Advisers continued to work in the same offices. The contract for the adviser to the PSO finished at the end of 2009 and was not extended. Contracts for advisers in the SLO, PPO were extended

to the end of 2010 to coincide with the end of the program. A short term adviser with the state Prosecutions Department also had his contract extended to the end of the program.

Stream 2: MoJ-managed organisational development and CLE

SPO office refurbishment was completed. The program also funded the building of a modern moot court for the Law Faculty of the University of the South Pacific.

There was continued support for placements and interns. Training and workshops covered management, computer skills, planning and budgeting, policy development (including issue specific policy development), team building, forensic and expert evidence, courtroom and study skills, legal drafting, continuing legal education. Some training activities were also conducted for staff based outside Port Vila. Some of the other legal sector institutions receiving support under this stream included the USP Legal Clinic, the Department of Women's Affairs, the Supreme Court, the Ombudsman's Office, the Malvatumauri (Council of Chiefs), the newly formed Law Society and the PaCLII legal gateway.

The program provided some office furniture and computers to the PSO, SLO, PPO and SPD. The SPD were also provided with a range of operational items including Bar jackets and a motorbike for the Ambae based officer. Other items included air conditioning for the SLO and PPO offices, photocopiers for the PSO Santo office, and portable printers for all four offices. The civil procedure manual was updated.

There was also support for some operational costs such as telecommunications costs for the SPD and participation in the court circuit for staff of the PPO.

Stream 3: Cross-sector and thematic initiatives

There was a notable emphasis on planning for the sector, leading to the development and launching of the first ever strategy for the whole legal sector, under the leadership of the Ministry of Justice and Social Welfare. Other cross sectoral activities included support for two law week events, promotional materials for the MJWS, a report on records management and archives, a workshop on case management software for all agencies and a report on continuing legal education.

Key Achievements

Key achievements of the VLSSP include:

Stream 1: Targeted advisory support to the three public legal offices

- Significant increase in the skills of junior professional staff working in the key agencies, significantly due to mentoring and advice by VLSSP advisers.
- SPD officers have had the opportunity to witness the operations of the Victorian Police Prosecutions Department, leading to a better understanding of how SPD can improve its own system. There are currently negotiations to develop a twinning arrangement between SPD and the Victorian Police Prosecutions Department.
- Improved case management systems.

- Advisers have assisted GoV to deal with complex technical issues, resulting in better one-off financial and legal outcomes for the GoV in specific cases.
- Offices and equipment have been upgraded.
- Civil procedure guide produced and updated.

Stream 2: MoJ-managed organisational development and CLE

- Assistance to MOJCS and heads of agencies to develop the first law and justice strategy, contributing to increased ability of the MOJCS to coordinate the sector and higher levels of interest in genuine partnerships with donors.
- Facilitated subsequent meetings of the Head of Agencies Group that is tasked with implementing the strategy.
- Supported MOJCS with the development of an options paper for CLE.
- Improved management, budgeting and planning ability of key agencies and management training delivered to some other sector agencies. Most agencies have received increased budgets which may be partially due to increased planning capacity of agencies.

Stream 3: Cross-sector and thematic initiatives

- Improved access to legal aid through support for the SPD and the Community Law Centre at USP.
- Access to legislation improved through support for PaLii Gateway.
- USP Moot Court is under construction.
- Ombudsman supported to facilitate discussion on changes to the Leadership Code and Ombudsman Act.
- Supported first process of community consultation in policy and legislative development -- around GoV National Drugs Policy.

Lessons Learned

The Mid Term Review Team found individual agencies had been considerably strengthened by the assistance but that the impact on the whole sector was difficult to determine. The review team expressed concern at lack of real ownership of some capacity building activities and lack of GoV leadership across the sector. The review found that the work of the advisers was needed but that there should be more emphasis on capacity building and mentoring of ni-Vanuatu staff and less emphasis on advisers performing inline work. This was to be addressed by agreeing a set of principles of engagement between VLSSP and host agencies.

Summary of Key MTR Findings

- Project Annual Plans were developed by taking key activities from the business plans of each office that aligned with the VLSSP objectives and identifying them for program support. The effectiveness of this strategy was lessened by lack of GoV ownership of the business plans and lack of a sector wide strategy.
- The VLSSP had had a significant impact on the three public legal offices, and that as a result each office was able to handle their routine workloads relatively well.

- Professional development of legal staff was one of the most visible achievements of the program. Young lawyers in each office have the skills, confidence and professional attitude to manage their routine workload. This was due largely to the mentoring and support that has been provided through technical advisers.
- At a sectoral level the project had had little impact.
- Impact on access to justice was limited due to concentration of VLSSP activities in Port Vila.
- A lack of leadership across the sector and poor management structures had resulted in weak ownership of activities.
- Significant elements of the assistance had been supply-driven, and appear not to have been seen as particularly relevant by the counterparts.
- The provision of advisory assistance was clearly both needed and welcomed.
- Although the project was designed to be complementary to other assistance for the police, judiciary and corrections services, donor assistance to the sector focused primarily on the organisational needs of the counterpart institutions, and not on systemic problems across the sector.
- GoV establishment of the Ministry of Justice and Community Services had enlarged opportunities for sector wide engagement.

Lessons learned 2008-2010

Lessons about technical assistance to the law and justice sector

- The work of the advisers continued to be highly valued by leaders of the host agencies. It also became apparent that, despite attempts to draw back from inline support, advisers continue to be called on to substitute for ni-Vanuatu expertise in a range of circumstances:
 - When conducting a matter jointly with a GoV legal officer as a capacity building exercise.
 - Where a matter is beyond the skills or experience of the office and the adviser uses the opportunity to develop precedents and demonstrate how the matter should be conducted.
 - Where due to staffing levels or operational demands the adviser must appear or undertake work to ensure compliance with conference directions or avoid default judgments.
- One adviser recruited to work for the SPD in October 2009 has performed no inline work, indicating that newer advisers may be in a position to establish new rules of engagement whereas those who have been in their positions since before the MTR have not been able to break established expectations. However, agencies that remain under staffed and/or staffed with professionals who lack the experience to deal with complex legal issues are likely to continue to need some inline assistance.

- Expectations of advisers should be actively managed. Principles of engagement, jointly negotiated with program management, host agencies and relevant GoV officials, would help with this. However, these principles should be broad enough to allow for unanticipated circumstances. Jointly developed workplans and performance indicators that focus on the capacity building role of the technical advisers may help to alleviate pressure on advisers to devote a disproportionate amount of their time to in-line support.
- GoA funded advisers providing in-line assistance are vulnerable to allegations of inappropriate involvement, particularly by parties who stand to lose from a more effective GoV legal sector. Principles of engagement should make it clear that advisers cannot become involved, or be seen to be involved in litigation or other forms of in-line assistance that are politically sensitive or where potential conflicts of interest exist.
- Advisers should be supported and monitored to exercise sound judgment as to when engagement is appropriate and to consult with designated GoA and GoV managers when in doubt.
- All advisers must be covered with adequate professional indemnity insurance.
- Principles of engagement and position descriptions should clarify if and how individual advisers are to be called on by the GoA or other GoA funded programs to report or provide briefings.
- The feasibility of using locally sourced advisers and technical assistance should be considered in each instance.

Sectoral and Donor Coordination

- As demonstrated by the development of the Legal Sector Strategy and a subsequent meeting of heads of agencies to discuss implementation of the plan, the MOJCS is willing to take the lead in coordinating the sector. Heads of agencies are increasingly interested in engaging with donors as equal partners. However, planning for operationalisation of the strategy will take some time. Donors can facilitate this process as required but should avoid initiating new forms of assistance before the outcomes of this GoV planning process are known.
- Australian assistance to the sector has had considerable impact on the capacity of a number of agencies but more coordination between programs would enhance impact and efficiency.

GoV engagement

- There is a need for each agency to be better informed of the value of Australian assistance, to be fully involved in planning how those funds will be spent and starting the transition to GoV funding for all recurring expenses including human resource development.
- Requirements for GoV to contribute money or human resources to an activity have resulted in a greater level of commitment to and engagement with the activity.

Other

- A danger of a sector wide approach is that assistance is spread too thinly.
- Management by an Australian government department has considerably lessened management and TA fees. This should be taken into consideration when designing future management structures.
- Law and justice reform is a complex and lengthy process, subject to the influences of local and international political environments. Change will be slow and incremental. Development assistance to facilitate that change must be flexible, culturally sensitive, long-term and based on trust and mutual respect.

Annex 3: Gender and development analysis

International Obligations

Successive Vanuatu Governments have expressed commitment to advancing equality for women and gender equity. These include the adoption of key international conventions such as:

- *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* ratified in 1995;
- *United Nations Security Council Resolution 1325* of 31 October 2000 addressing women, peace and security and women's contributions to conflict resolution and sustainable peace;
- *Millennium Development Goals (MDG)* of which goal number three is to promote gender equality and empower women through several indicators including the proportion of seats held by women in parliament;
- *Declaration of the Elimination of Violence Against Women* of 20 December 1993;
- *Beijing Platform for Action (PFA)* 1995;
- *Pacific Platform for Action on the Advancement of Women and Gender Equality* 1994;
- *Convention on the Rights of the Child* ratified in 1993.

National Policy Commitments

The Constitution grants women legal equality and makes sex discrimination specifically illegal. In its 2005 report to the CEDAW committee, the Government of Vanuatu also asserted that *Vanuatu is one of the very few countries in the Pacific that has affirmative action laws for women. This is contained in Article 5(1)(k) of the Constitution which specifically provides for: "equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of underprivileged groups or inhabitants of less developed areas."*⁷

The Courts have ruled that in ratifying CEDAW, the Government created a legitimate expectation that the Government and its agencies *will act in accordance with CEDAW principles*. On this basis, the courts have determined that discriminatory customary rules land ownership rights could be overruled.⁸

In 1997, under its Comprehensive Reform Programme, the Government of Vanuatu adopted a Gender Equity Policy and Nine Benchmarks to improve the situation of women. These were:

1. Visibility and meaningful participation in decision-making.
2. Valuation of the contribution of women.

⁷ Government of Vanuatu, Report to CEDAW Committee, 2005, p 50

⁸ Government of Vanuatu, Report to CEDAW Committee, 2005, p 38

3. Economic equality and Independence.
4. Violence against women and discriminatory laws.
5. General physical and mental health.
6. Reproductive health.
7. Customs, religion and culture.
8. Education.
9. Environmental management and subsistence production.⁹

Since that time the government has had a policy of gender mainstreaming within the public sector, including the appointment of gender focal points.

After a 2006 National Summit on Women, the Government of Vanuatu adopted the *National Plan of Action for Women (2007-2011)* which identifies 12 areas of priority:

1. Women and Poverty
2. Education and Training of Women
3. Women and Health
4. Violence Against Women
5. Women and Armed Conflict
6. Women and the Economy
7. Women in Power and Decision-Making
8. Institutional Mechanism for the Advancement of Women
9. Human Rights of Women
10. Women and the Media
11. Women and the Environment
12. The Girl Child

Vanuatu Australia Partnership for Development

Vanuatu Australia Partnership for Development, signed in May 2009 states that *"in addressing priority outcomes the partnership for development should ... address equality of opportunity for all men and women and include the needs and priorities of people with disability in development activities.*

In line with the Partnership for Development, the design of the *Stretem Rod Blong Jastis* partnership (2011-2014) aims at supporting GoV capacity to develop a coordinated approach across the law and justice sector. In doing this, it will support CEDAW compliance and compliance with the National Plan of Action for Women, particularly in addressing specific issues such as violence against women.

⁹ 2005 CEDAW Report, p 23

Capacity development activities will mainstream gender and particular attention will be given to support for a coordinated implementation of the Family Protection Act and other legislative and policy priorities aimed at promoting gender equality. Gender analysis of sex disaggregated data will be supported to promote the equal participation of women and men in the sector giving particular attention to the role of ni-Vanuatu women in traditional and formal justice settings.

The Partnership will also comply with Australia's Framework for Law and Justice Engagement with the Pacific (June 2010) which states that:

Australia promotes gender equality as a central principle of all our law and justice engagement in the Pacific. This means working to ensure that men and women have equal access to the justice system and receive equitable treatment before the law. As a particular priority, Australia recognises that reducing violence against women is crucial to achieving equality between men and women and delivering good development outcomes.

Aligning *Stretem Rod Blong Jastis* partnership targets to GoV Policy

The *Stretem Rod Blong Jastis* Partnership will have a major focus on three of the 12 priority areas outlined in the National Plan of Action for Women and will be of some relevance to several others. It also has the potential to contribute to the GoV commitment to mainstream gender within the public sector.

Priority Area 4: Violence Against Women

In its 2005 report to the CEDAW Committee, the Government of Vanuatu acknowledged high rates of violence against women in Vanuatu and characterised it as an issue that was only just beginning to be acknowledged as a form of gender based discrimination.¹⁰ Redress under the customary justice system tends to override the rights of the women who have suffered the violence and even the formal justice system has had a history of lenient sentencing and statutory pardons.¹¹

The Family Protection Act, promulgated in 2008, is a major achievement in addressing the issue of violence against women through the legal system. The Act defines the crime of domestic violence to include physical, psychological, and sexual abuse as well as damage to property, stalking, and indecent or offensive behavior (Article 4(1))

A key feature of the Act is that it seeks to provide protection for women in rural areas where there are no courts. The Act allows authorized persons, who are not magistrates or judges, to make temporary protection orders for up to 28 days. Implementation of the Act is only just beginning. The first charges of the crime of domestic violence were about to be made at the time of this design phase. The non-judicial authorized persons have not yet been appointed or trained. The design team was told that the Department of Women's Affairs may pilot the use of authorized persons in some areas before they are appointed across the country.

¹⁰ 2005 CEDAW report, p 28.

¹¹ 2005 CEDAW report, also AusAID Office of Development Effectiveness, Violence Against Women in Melanesia and East Timor: Building on Regional and Promising Approaches, 2008 pp 172-173.

The Act has been very controversial as violence against women and children is reportedly viewed as quite acceptable by many ni-Vanuatu, especially in rural communities. The *Stretem Rod Blong Jastis* Partnership will prioritise capacity building and coordination activities that are identified as important to the implementation of the Act by GoV justice sector agencies. Facilitation of better donor coordination will also contribute to better planned activities, e.g. to train and support the VPF Family Protection Unit under programs supported by Australia and New Zealand.

Ongoing assistance to the Vanuatu Women's Centre will help to drive the EVAW agenda. The *Stretem Rod Blong Jastis* Partnership will facilitate better information exchange and coordination between Australian funded programs in the sector, including those supporting GoV and ni-Vanuatu civil society efforts on EVAW.

Re-establishment of a National Task Force on VAW is another EVAW measure in the National Plan of Action for Women. If partners agree this is a priority, the *Stretem Rod Blong Jastis* Partnership could also support the committee's re-establishment and participation by legal sector agencies. The National Plan of Action calls for the enforcement of the Leadership Code as an EVAW measure. Through the Pacific Ombudsman Alliance, the GoA will support the Vanuatu Ombudsman's efforts to strengthen and enforce the Code.

Priority Area 9: Human Rights of Women

The MoJCS is responsible for the administration of CEDAW, the Convention on the Rights of the Child and the Convention on Persons with Disability. By enhancing its ability to coordinate across the sector, the *Stretem Rod Blong Jastis* Partnership will directly contribute to the Ministry's work in this regard. The Law and Justice Sector Strategy also deals with implementation of Vanuatu's human rights commitments. For example, under the pillar of *Access to Justice for all*, the strategy calls for investigation into the establishment of a Human Rights Commission. The partnership will contribute to the achievement of this and other relevant aspects of the strategy by supporting the development of costed implementation plans across the sector.

Through its advisory and capacity building support to the State Law Office, the *Stretem Rod Blong Jastis* Partnership can help to ensure that all newly drafted legislation is consistent with international treaty obligations, as required under the sector strategy and the National Plan of Action for Women.

The Partnership design also envisages support for activities that will better understand the interface between the formal and customary justice sectors. Human rights and gender equity are key issues of contention between these two systems. This has been demonstrated by various Supreme Court decisions that have overruled instances of customary law on the basis that they discriminated against women and therefore violated Vanuatu's obligations under CEDAW.¹² A more in depth analysis of the interface between the two systems will assist the GoV to develop coherent policies regarding women's human rights and customary law.

The National Plan of Action for Women also calls for the promotion of legal literacy as a measure to protect the human rights of women. By its overall support to the strengthening of

¹² Several such cases are discussed in the GoV's 2005 CEDAW report.

the law and justice sector, the *Stretem Rod Blong Jastis* Partnership will indirectly contribute to achieving this goal. Support for the Law Society and for better coordination among the various agencies that are conducting legal literacy activities will also potentially contribute to this goal.

Priority Area 7: Women in Power and Decision Making

Access to justice for women and women's participation in the law and justice sector¹³ are important aspects of women's participation in power and decision making. Strengthening of the Public Solicitor's Office, which provides legal representation and support for needy people and legal literacy training, will enhance women's access to justice.

The Partnership will encourage analysis of the participation of women at decision making and leadership levels within the sector and the level of gender disparity within sector agencies. The Partnership can support MoJCS to consider the idea that sector agencies should be encouraged to report on recruitment policies and practices, adoption of sexual harassment policies, training and development opportunities within agencies and at the community levels.

To assist with this process, gender awareness, including awareness of the GoV's policy commitments, can be incorporated into capacity building activities and planning for the implementation of the sector strategy. The Partnership can support the MoJCS to consider gender performance in monitoring the implementation of the strategy. Gender Performance indicators may include:

- Gender awareness levels
- Recruitment % of males/females
- Training opportunities for women/men
- Increased number of women in law and justice sector management and leadership
- Increase in females to males in administration and management and professional and technical jobs
- Civil society organisations (Women NGOs) engaged in delivering Law and Justice services

Other National Action Plan priorities

Other measures called for in the National Plan of Action for Women to which the Partnership can contribute include:

- Generation and dissemination of "gender-aggregated" data and information for planning and evaluation by encouraging the use of gender analysis in budgeting and planning among the legal sector agencies(Priority 9);
- Elimination of discrimination against the girl child through support to the MoJCS in its administration of CRC(priority 12)

¹³ In 2005 the GoV reported to the UN that : Two of eight magistrates were women; seven women had been trained to act as Justices in the Island Courts, three of whom were actively sitting in 2003; the first female lawyer graduated in 1985; and there have been no female judges since independence. (2005 CEDAW report, pp 136-137).

Increased capacity for gender mainstreaming

The GoV has long had a policy of support for gender mainstreaming within the public sector. Advocating gender awareness and gender responsiveness within the law and justice sector requires capacity building of sector agencies and a coordinated approach. The partnership advisers will encourage and support the MoJCs, MoIA and the law and justice sector agencies to include capacity building for gender mainstreaming and will assist with the sourcing of skilled gender expertise (preferably ni-Vanuatu) as required.

Conclusion

In considering how GoV gender equity policy commitments can be advanced consistently across the sector and within sector agencies, the *Stretem Rod Blong Jastis* Partnership will undertake the following strategies:

- (a) Promotion of a coordination, including gender mainstreaming, across the law and justice sector, through support for the MoJCS coordination efforts;
- (b) Helping to source gender expertise and providing capacity building for gender mainstreaming as required;
- (c) Encouraging the incorporation of gender equity indicators in the sector strategy monitoring plan;
- (d) Supporting better coordination and exchange of information about gender related issues across the sector;
- (e) Providing advice to the SLO to ensure compliance with CEDAW and other human right obligations in all legislation;
- (f) Strengthening the PSO and other law and justice sector agencies relevant to women's access to justice;
- (g) Mainstreaming of gender into all capacity building activities supported under the partnership.

Annex 4: Position Descriptions for Supported TA Positions (Deliberately left blank)

See Annex 1 to Schedule1 of Draft Contract

Annex 5: Donor Assistance to the Sector

1. Australian Bilateral Funded Programs/Partnerships

Vanuatu Police Force Capacity Building Project: AUD28 million initiative over five years (2006-2010), the VPCBP is a collaboration between the Australian Federal Police and the Vanuatu Police force. Section 4.2.2 provides details of the Project.

Vanuatu Kastom Governance Partnership is a five year partnership between Malvatumauri Vanuatu National Council of Chiefs (Malvatumauri VNCC), Australian Centre for Peace and Conflict Studies (ACPACS) and AusAID. (See section 4.2.3 of the PDD for details)

Governance for Growth Program is a long term program (extending to 2017), directly implemented by a team of AusAID staff housed in the Vanuatu Public Service Commission, adjacent to the Prime Minister's Office and the Department of Strategic Policy Coordination. The Goal of the GFG is to support the Government's vision of an educated, healthy and wealthy Vanuatu. The Purpose of GFG is to generate economic growth and improve service delivery through good governance. The GFG aims to achieve two key results: Vanuatu's policy framework is more supportive of broad-based growth; and the quality of Vanuatu's public expenditure is improved. The program is a rolling design using a wide range of aid modalities including technical assistance, grants, direct investment, incentive funding, research funding, support for third party implementing partners, and brokering the involvement of international organisations and other donors. The GFG design envisages several sub-programs in the areas of: Economic and Sector Policy; Public Financial Management; the Power Sector; the Telecommunications Sector; the Vanuatu Commodities Marketing Board; the Part Sale of Air Vanuatu; Gender and Economic Growth Research; and Support for the National Statistics Office.

Potential for Collaboration: Experience under the VLSSP demonstrates that Australian advisers working in the SLO can contribute useful advice to the GoV when negotiating complex issues such as the de-regulation of the telecommunications sector. This may continue under the *Stretem Rod Blong Jastis* Partnership if formally agreed upon by GoV and GoA. As discussed elsewhere in this design, such advice requires a high degree of judgment on the part of the advisers to ensure they do not become involved in politically charged issues, are not seen to be influencing GoV policy or to be intervening in situations where there is the possibility of perceived GoA interest in a particular outcome.

Future assistance to the law and justice sector should also seek to leverage engagement with GoV central agencies to help strengthen the law and justice sector's involvement in GoV public sector reform agenda, and more effective participation in the GoV annual planning and budgeting cycle.

2. Regional programs/partnerships

The Government of Australia also funds a range of regional Pacific partnerships of relevance to the Vanuatu law and justice sector including:

Commonwealth Ombudsman's Office and the Pacific Ombudsman's Alliance: The Pacific Ombudsman's alliance was established in 2008. The three person secretariat for the alliance is drawn from staff of the Commonwealth and NSW Ombudsman's offices. The main focus of the Alliance is peer to peer support, providing a forum for national ombudsmen to meet, report back to each other and exchange experiences and lessons learned. With AusAID funding the Alliance also has a twinning program with the PNG Ombudsman. The Alliance has worked with the Vanuatu Ombudsman to apply for an AYAD volunteer to assist with implementation of the revised Ombudsman's legislation. The volunteer will begin her placement in July 2010. The secretariat will brief her and provide ongoing advice. A secretariat staff member visited Vanuatu in June 2010 to help to prepare for her arrival.

Potential for Collaboration: The Vanuatu Ombudsman now comes under the umbrella of the MoJCS and participates in the Heads of Sector Group. The Australian Partnership Coordinator will encourage the Pacific Ombudsman's Alliance to participate in GoV donor coordination activities as relevant and to ensure that assistance is aligned with GoV sector priorities.

Federal Court of Australia and the Pacific Judicial Development Program¹⁴: The Federal Court of Australia has a long history of engagement with other courts in the Asia Pacific region, leading to effective relationships with the ni-Vanuatu judiciary, including the Chief Justice. A new phase of the Pacific Judicial Development Plan is currently being established and will be managed by the Federal Court of Australia. The PJDP has been jointly funded by the Governments of New Zealand and Australia and joint funding will continue at least until December 2010. As the Program covers the entire Pacific region with relatively limited funds, the program is unlikely to be able to address the specific needs of the judiciary in each country. However it may develop frameworks that can be refined for national application and implementation using funds from other sources and there may be some bi-lateral assistance with training and implementing improved administrative systems and processes.

Potential for Collaboration: The Chief Justice of Vanuatu participates in the Heads of Sector Group and will therefore be in a position to leverage assistance under the Pacific Judicial Development Program to assist in implementing sectoral strategies for the judiciary. Through AusAID, the Australian Partnership Coordinator will encourage the Pacific Judicial Development Program to participate in GoV donor coordination activities as relevant and to ensure that assistance is aligned with GoV sector priorities.

Commonwealth Attorney General's Department: Under the PPDP, the Commonwealth Attorney General's office provides legal drafting assistance to Pacific Island Countries in areas

¹⁴ This is a jointly funded program with NZAID, where NZAID plays the major contract management role.

relevant to policing and criminal justice. The department is planning a scoping mission to Vanuatu in the second half of 2010. AGs also engages with Vanuatu through its anti-money laundering program, AMLAT. The Attorney General's office has also provided support to South Pacific Forum countries in other aspects of legislative drafting and under the Public Sector Linkages Program offers two three-month placements for legislative drafters from SPF member countries each year. The department's library has a twinning program, providing books and resources to Pacific Island counterparts.

Potential for collaboration: Through AusAID and the VPFCBP, the Australian Partnership Coordinator will encourage the Attorney General's Department to participate in GoV donor coordination activities as relevant and to ensure that assistance is aligned with GoV sector priorities.

Regional Rights Resource Team (RRRT): This is a regional team specializing in raising awareness at many levels about the rights of people, particularly those rights covered by Pacific national constitutions and international treaties. RRRT has a long-established reputation in the region and is currently based at the Secretariat for the Pacific Community (SPC) in Suva. The Team works through a national focal officer in each country (in Vanuatu, she is based in the Department of Women's Affairs) and supports community engagement through a large cohort of trained officers. Australia is one of two major donors to RRRT, alongside NZAID – AusAID contributes funding for RRRT activities and NZAID contributes core organizational costs.

Pacific Islands Law Information Institute (PaCLII): This is a regional program based at the USP Law Faculty in Port Vila. It provides a highly valued regional data-base of legal cases, legislation and a wide variety of relevant legal information free to Pacific island countries. It promotes access to legal resources to support national legal systems. PaCLII has been jointly funded by AusAID and New Zealand Aid Programme (at a cost of around AUD400,000 per year) until recently through funding provided through an MOU with USP. At the time of this design, it is anticipated that funding for PaCLII from 2011 would continue to be provided through the AusAID regional program (details are expected to be finalized by the end of 2011).

Potential for collaboration: Given the critical need for locally relevant legal information to inform GoV's policy development in the law and justice sector, it is proposed that the *Stretem Rod Blong Jastis* Partnership contribute towards the costs of PaCLII at least for the next 2 years. While the contribution will not be sufficient to sustain the entire operations, it may help USP to attract other sources of funds and maintain a minimum level of activity in the meantime. More detailed discussions will be necessary to formalize this or any negotiated arrangement.

3. Programs funded by Other Donors

Government of New Zealand

The New Zealand Government will complete its current five year program of cooperation with Vanuatu in 2010. A new ten year engagement plan is currently being negotiated.

The Government of New Zealand is likely to continue support for the newly formed Department of Correctional Services which is responsible for prisons and community based parole and probation. Support includes placement of up to five in-country advisers from the NZ Department of Corrections. Work on a new prison near Port Vila was about to commence at the time of the design mission.

Other aspects of New Zealand's partnership with the sector in Vanuatu include: The secondment of a New Zealand judge to the Vanuatu Supreme Court, funding for Wan Smol Bag, for the Vanuatu Women's Centre and for the Vanuatu Alliance of NGOs (VANGO) and for Transparency Vanuatu.

The New Zealand government also supports regional initiatives of relevance to the law and justice sector. Under the Pacific Prevention of Domestic Violence Program (PPDVP), a technical expert provides periodic advice to the Family Protection Unit of the Vanuatu Police Force. New Zealand is a joint partner, with the GoA of the Pacific Judicial Development Program (PJDP).

Potential for collaboration: There is already close day to day liaison between advisers working in the Department of Corrections and the VPF and VLSSP programs. Representatives of NZAID express strong support for sectoral coordination. There would be considerable benefit in more exchange of information and coordination at a program to program level with representatives of the Department of Corrections program, VAPP, PJDP and PPDVP. Increased capacity for donor coordination by the GoV will assist with this.

World Bank

Justice for the Poor (Justice for All): Justice for the Poor (J4P) is a global research and development program aimed at informing, designing and supporting pro-poor approaches to justice reform. The Pacific program of J4P is funded by AusAID until 2012 through a Regional Trust Fund administered by the World Bank. In Vanuatu the program is called *Jastis Blong Evriwan*. It focuses on land and natural resources, legal pluralism, gender and evaluation and monitoring. The Vanuatu team has completed initial research into resolution of land disputes at local level. The results will be published in the second half of 2010. The program is also contributing to a comparative analysis of hybrid courts in Melanesia, including the Island Courts of Vanuatu.

After a research phase of two years the program has the capacity to initiate pilot projects based on research findings and in synergy with other World Bank funded programs. The work of the program has the potential to increase understanding of the interface between the formal and customary legal systems as well as expanding understanding of local level dispute resolution.

The World Bank and the Asian Development Bank will open a joint office in Port Vila in 2010.

Potential for collaboration: The *Jastis Blong Evriwan* program potentially has much to offer the law and justice sector by way of increased understanding of non-formal systems of dispute

resolution, particularly with regards to land ownership. This information will potentially assist the GoV to achieve its stated objectives with regard to customary law. The program already exchanges information and cooperates with relevant GoV agencies and with VLSSP advisers. The Partnership advisers will liaise closely with this program, especially under Element 3 of the Partnership, facilitating dissemination and analysis of research to enhance the GoV policy development process where appropriate.

European Union

European Union is providing support to Transparency Vanuatu to run programs aimed at strengthening media research and citizens' awareness of governance and accountability issues. The program includes training in investigative journalism, a weekly newspaper column and workshops. A separate program of support focuses on training for community leaders on basic citizenship issues, principles of democracy and citizen participation. The European Union has also provided assistance to Wan Smol Bag to raise awareness around violence against women and participate in the gender donor's group. The EU's program of support for non-state actors is funded through selection rounds. The immediate objectives of the 2010 selection round are support for "Citizenship, gender equity, political awareness and appreciation of culture among youth, vulnerable groups and/or population with less access."

Potential for collaboration: European Union representatives expressed willingness to participate in sectoral coordination as relevant.

UNICEF

In collaboration with Governments, civil society partners, United Nations agencies, donors and regional institutions, UNICEF has identified a number of key outcomes for the Pacific region, some of which include:

- National policies and plans for equitable social and protection services
- National systems enhancing accessibility, affordability and the well managed delivery of equitable, gender sensitive quality social and protection services;
- Pacific Island Countries are aware of and protect human rights and make available mechanisms to claim them
- National and regional statistical information systems and data bases established, strengthened (to support information systems), upgraded and harmonized and focus strongly on demographic disaggregated data and poverty indicators;

Potential for Collaboration: The design team was informed that UNICEF has commissioned a private lawyer to draft legislation pertinent to child welfare. Better GoV donor coordination capacity will hopefully ensure that this knowledge is shared across relevant agencies of the sector and that such donor initiatives are aligned with GoV processes.

4. Non Government Organisations

Wan Smol Bag: Governance is one of the focal areas of the Wan Smol Bag community theatre group. The group raises awareness of governance issues such as citizens' rights, corruption, police misconduct, gender equity and a range of other legal and cultural issues, using live drama, radio and video productions. Its productions are highly professional and very popular throughout Vanuatu and other Pacific Island countries. These productions are probably the most effective methods for disseminating information and raising awareness among communities throughout the country. The organization has the capacity to produce videos and DVDs for further dissemination. The Wan Smol Bag centre in Port Vila also provides a range of services for youth and other members of squatter communities including health, sporting facilities and non-formal education, providing means to communicate both ways about law and justice issues from time to time. The Governments of Australia and New Zealand provide core funding to the organization.

Vanuatu Women's Centre: The Vanuatu Women's Centre is a highly regarded NGO and was set up in 1992 as a crisis centre for women and children facing abuse. It has an attached Safe House facility. It is managed by the Fijian Women's Crisis Centre and affiliated with the Secretariat for the Pacific Women's Network. VWC aims to eliminate violence against women and children throughout Vanuatu. It is core funded by AusAID and the Safe House is funded by NZAID. Operating from a well run office in Port Vila with 10 staff, VWC has two provincial offices in Tanna (AusAID funded) and Santo (NZAID funded). An extensive national network is provided through 37 committees around the country. A strong focus in this phase (second year of a 5 year planning cycle) is M&E with surveys being undertaken in prevalence of domestic violence. The National Statistics Office has assisted in tool design & WHO with methodology. Provincial Committee members will act as survey takers.

The VWC has been instrumental in advocating for and assisting with the drafting and adoption of the Family Protection Act and will have an important role to play in its implementation. Similarly, the VWC can offer expertise to assist the GoV with future legal reform, dissemination and awareness-raising around its priorities relevant to gender equity and the human rights of women and children.

Transparency Vanuatu

Transparency Vanuatu is the local chapter of Transparency International. TV has five complaints offices around Vanuatu and is a vocal campaigner around issues of corruption and accountability within the country. TV conducts workshops and awareness raising activities with community leaders and contributes an outspoken weekly column to the local newspaper.

The Advocacy & Legal Advice Centre Funded (ALAC) is funded by DFID through Transparency Vanuatu. ALAC provides free legal advice and assistance to victims and witnesses of corruption

to pursue corruption related complaints. ALAC provides detailed legal recommendations as options for clients before going to the Ombudsman, PPO or PSO.

Save the Children Australia

Save the Children Australia's Child Rights and Child Protection Program Supports implementation of the UN Convention on the Rights of the Child (CRC). SCF works with the National Children's Committee, communities, chiefs and churches to strengthen capacity and empower children to participate in the realization of their rights.

Vanuatu Alliance of NGOs (VANGO)

VANGO is currently being revitalized after recently receiving core funding from NZAID. It currently has 16 financial members and a network of over 80 organisations and individuals. VANGO plans to provide capacity building, networking, advocacy and information dissemination activities for its members.

Vanuatu Council of Churches (VCC)

The Vanuatu Council of Churches acts as an umbrella organization for Christian Churches in Vanuatu. With 87% of Ni-Vanuatu active Christians, the VCC is an organisation with national outreach with a ubiquitous presence, even in very remote areas. It is understood that if the Government or an NGO wishes to engage a community successfully and sustainably, the support of the local Church must be gained. The VCC as an umbrella agency provides convenient access to this network. The VCC reports its members to be "eager" to be involved in public issues. Each of the 6 provinces has an underlying organization called the Ministers Fraternal which constitutes the provincial arm of the VCC and these may be contacted through the VCC. VCC currently receives funding from AusAID through the Vanuatu Churches Partnership, which supports a range of organizational development activities.

Community Legal Centre Vanuatu

The Community Legal Centre's primary role is to provide legal services and information to the people of Vanuatu though funds and human resources are very limited. The Centre makes considerable use of law students who volunteer their time as a Work experience activity. Connected to the University of the South Pacific, the CLC has received some support under VLSSP in the form of construction of a Moot Court during 2010 and other assistance. The CLC produces a range of important information and education materials about relevant legal issues. These are already widely used by many other NGOs and are a potentially useful tool for increasing legal literacy and access to justice.

Potential for Collaboration with NGOs: There is a range of ways in which the NGOs listed above, as well as some others¹⁵, could potentially participate in achievement of specific priorities under the Law and Justice Sector and Action Plan. Donors funding the NGOs will be encouraged to participate in GoV donor coordination activities in order to reduce potential for duplications and to maximize alignment with GoV priorities. Umbrella organizations such as VANGO and the NCC can assist with information dissemination. Relevant materials produced by organizations such as VWC and the CLC could be duplicated to avoid the necessity of producing new materials.

¹⁵ A more extensive list of organizations involved in producing relevant awareness raising materials can be found in: "Report on Survey of Awareness Materials in the Vanuatu Legal and Social Justice Sector, " commissioned by VLSSP in 2009.

Annex 6: Budget (Deliberately left blank)

Annex 7: M&E Matrix to 2015

L&J Partnership Levels/Elements	Expected outcomes	Performance questions	Monitoring Tools
<p>Vision: A professional, competent and accountable law and judicial system that enables equal rights and access to justice for all</p>	<p>The quality of formal legal service delivery is maximized within an affordable budget</p> <p>Increased and more equitable access by ni-Vanuatu women and men to affordable, sustainable and culturally relevant services which promote harmony and justice and human rights</p>	<p>Is there evidence of increased access and improved quality of legal services?</p>	<p>Annual discussions by Governance Group</p> <p>Joint Mid Term Review (mid 2013)</p> <p>Independent End of Term Review (mid-2015)</p>
<p>Mission: To support justice agencies to promote justice and provide fair and equitable services to meet the needs of the community, the rule of law and protection of human rights</p>	<p>Increased GoV leadership across the sector</p> <p>Sectoral capacity is increased, represented through improved performance and ability of GoV and other stakeholders to achieve shared objectives</p> <p>A broader definition of the law and justice sector is used by all stakeholders to take into account the critical role of agencies and <i>kastom</i> leaders/chiefs beyond urban centers and outside Government</p> <p>The interface between formal justice and <i>kastom</i> law systems is clearer and more widely understood within the sector and beyond</p> <p>Relationships between communities and police are better than in 2009 (baseline)</p>	<p>Are there stronger links between organizations involved in formal and <i>kastom</i> systems?</p> <p>Are legal agencies which have participated in sector capacity development activities reporting improved self-management?</p> <p>Do Vanuatu communities report increased confidence and respect for police services and better relations with police?</p>	<p>Annual discussions by Governance Group</p> <p>Joint Mid Term Review (mid 2013)</p> <p>Independent End of Term Review (mid-2015)</p> <p>Reports from VPF</p>

Element 1: Support for sectoral coordination, including donor coordination			
<p>Objective Stage One: Enable GoV to prepare coordinated, sector wide, detailed and costed implementation plans and priorities to achieve sector strategy objectives</p>	<p>Increased coordination across the sector Costed plans for the sector (and key agencies?) prepared More coordinated donor inputs into sector Detailed plan for Stage Two More coordinated Australian inputs into sector</p>	<p>Are stakeholders more closely linked in detailing the strategic direction of the sector?</p> <p>Has GoV produced costed, detailed plans for the sector (and key agencies) including appropriately pitched and resourced monitoring approaches?</p> <p>Has there been an improvement in the coordination of donor inputs to the sector and has this assisted GoV leadership in the sector?</p> <p>Is there coordinated governance across police and major Australian contributions to the sector and evidence of a more coherent overall contribution?</p> <p>Is there an agreed, detailed, monitorable plan to cover years 2-4 of the Australian Partnership in this sector?</p>	<p>Annual discussions in Governance Group</p> <p>Quarterly discussions in Management Group</p> <p>Design for Stage Two approved by Governance Group</p>
<p>Objective Stage Two: Support GoV to coordinate implementation and monitoring of priority activities identified in sector strategy, with coordinated donor support.</p>	<p><i>Outcomes to be determined during 2012</i></p>	<p>Is GoV implementing its Sector Strategy and Action Plan in an effective and efficient manner?</p>	<p><i>To be determined in 2012</i></p>
Element 2: Capacity Development			
<p>Objective Stage One: Ensure sustained delivery of current level of basic legal services to GoV and population</p>	<p>Legal services provided to GoV and population at same or improved quality by the end of 2012</p>	<p>Are Heads of Agencies reporting sustained or improved service delivery?</p> <p>Is a GoV capacity development strategy for the sector being prepared?</p>	<p>Assessment by Governance Group and Management Group in latter part</p>

			of 2011
Objective Stage Two: Increased self-reliance of agencies in the sector	<i>Outcomes to be determined during 2012</i>	Is there evidence of improvements in: <ul style="list-style-type: none"> • The capability to plan and act • The capability to deliver technical services • The capability to relate to other organizations and attract resources • The capability to find the right balance between core work and other matters • The capability to respond to changes in the environment or lessons learned 	<i>To be determined in 2012</i>
Element 3: Policy Development, Research and Sector Monitoring			
Objectives Stage One: Enhanced understanding about key legal issues to inform policy development, particularly selected gender and law issues; the interface between formal and customary law; and continuing legal education Sector wide monitoring system developed	GoV is provided with relevant and useful information and assistance to enable them to develop policies for the sector, particularly in relation to, but not limited to: <ul style="list-style-type: none"> • the rights of women • the rights of children • the rights of people with disabilities Heads of Agencies have developed a feasible monitoring system either for the sector or for key agencies	Have Heads of Agencies received relevant and useful research and other information to assist with policy development in the sector? Is there evidence (reports) of stronger monitoring systems across the sector?	
Objective Stage Two: Policies on selected legal issues implemented Effective sector-wide and agency specific monitoring systems in place.	<i>Outcomes to be developed during 2012</i>	Is there evidence of: <ul style="list-style-type: none"> • improved policy development processes • improved sector-wide monitoring 	<i>To be determined in 2012</i>

Annex 8: Law and Justice Partnership Governance, Management and Implementation Arrangements

Overall governance systems for the GoA and GoV Partnership for Development will inform this particular sector Partnership. The specific governance, management and implementation arrangements for *Stretem Rod Blong Jastis* are designed to best facilitate the principles and approaches described in this PDD, especially shared decision making and alignment with GoV planning, budgeting and monitoring systems. It will also incorporate and help to ensure the guiding principles of the collaboration between GoV and GoA including collaborative action, shared responsibility, mutual respect, accountability and transparency. Management and governance will also attempt to encourage better coordination between the two major Australian funded initiatives in the sector, *Stretem Rod Blong Jastis* and the next phase of the Vanuatu Police Force Capacity Building Project (VPFCBP)

1. Partnership governance and management

Governance

GoV has established a Heads of Agencies group to oversee the implementation of its Sector Strategy and Action Plan. This group has now met several times to develop the strategy (late 2009) and address initial implementation issues (June 2010). This group is led by the Minister for Justice and Community Services and clearly demonstrates a shared commitment to sectoral governance and is referred to in Diagram 1 as the Heads of Agencies Group (Governance Group). This is the obvious group to give overall guidance to the *Stretem Rod Blong Jastis* Partnership. The group is likely to meet several times per year and this is sufficient to provide sector-wide direction. Importantly this group includes the VPF, so it is envisaged that guidance will cover the police elements of the sector.

It is envisaged that an agenda item be included for each Heads of Agencies meeting, which addresses donor contributions to the sector and gives advice to all donor programs. The Heads of Agencies Group will also be involved in high level monitoring of the Partnership, including assessment of progress of gender equity issues in the sector. Secretariat services for this group will be provided by MoJCS officials, including Partnership-funded personnel, as appropriate.

Management

Consistent with the guiding principles of the Partnership, a management structure should include a joint decision-making team to interpret guidance provided by the Heads of Agencies group for implementation of Partnership activities. Also consistent with these principles, the final management arrangements should be negotiated by AusAID with the GoV in the lead up to the Partnership commencing. It is suggested that this group may be called the **Partnership Management Group (PMG)**, that it meet quarterly at minimum and that it possibly include the following participants:

- DG MoJCS (and/or appropriate MoJCS staff)
- VPF representative
- Law and Justice Partnership Coordinator
- AusAID representative
- AFP representative
- Possibly plus MoJCS Coordination and Liaison Officer
- Possibly plus Managing Contractor Representative

The PMG will have the following responsibilities:

- Approve six monthly reports and annual plans of the Partnership and the VPFCBP, ensuring they reflect the decisions and priorities of the Heads of Agency group
- Encourage and facilitate coordination between the two Australian funded partnerships to ensure maximum benefit to the GoV and alignment with GoV policies, priorities and processes
- Monitor progress towards implementation of capacity building plans and other Partnership plans
- Approve reports including capacity development plans and budget allocations for each element of the Partnership
- Prepare plans to ensure gender equity issues in the sector are deliberately researched, addressed and monitored by the Partnership, consistent with GoV commitments
- Ensure participating law and justice sector agencies are informed of Partnership plans including budget allocations broken down per agency and relevant partners and that these plans realistically reflect the priorities of the Heads of Agency group.

Day to day management of the non-policing elements of the Law and Justice Partnership will be the joint responsibility of the Australian Partnership Coordinator and a nominated senior officer of the MoJCS. Their responsibilities will include:

- Facilitating the work of the MoJCS in coordination across the law and justice sector
- Facilitating GoV coordination of donor programs across the sector, including coordination across various aspects of GoA assistance under the Law and Justice Partnership
- Assisting the law and justice agencies to develop costed and detailed implementation plans for relevant sections of the Law and Justice Sector strategy
- Overseeing the development and implementation of a plan for monitoring the implementation of the Sector Strategy
- Developing and overseeing the implementation of activity plans under elements 2 and 3 of the Partnership in accordance with the priorities of the Heads of Agency Group
- Overseeing the design of the Partnership for years 2-4.

The Australian Partnership Coordinator will also be responsible for jointly managing the work of all externally recruited **technical assistance personnel** with the head of each GoV host agency. She/he will negotiate joint management structures with the head of each GoV agency hosting an advisor under the Partnership. She/he will meet with the nominated GoV supervisor at least once a month. Together they will be responsible for:

- negotiating the position descriptions and principles of engagement for each advisor
- monitoring the work of the advisor with particular emphasis on the balance between capacity building and in-line work
- approve and monitor capacity mentoring and skills transfer work plans that will be drawn up by each advisor after consultation with relevant GoV colleagues

The **Managing Contractor** will be responsible for ensuring all aspects of its contract with AusAID are fulfilled. A detailed scope of services will outline responsibilities under the contract. Key responsibilities are likely to include:

Human resource management services

- Recruit and deploy all external advisors, including the Australian Partnership Coordinator, after they have been approved by the GoA and GoV
- Monitor and manage the performance of technical advisors, including the Australian Partnership Coordinator, in consultation with relevant GoV and AusAID representatives
- Assist in the procurement and deployment of short term technical assistance as required

Financial and procurement management services

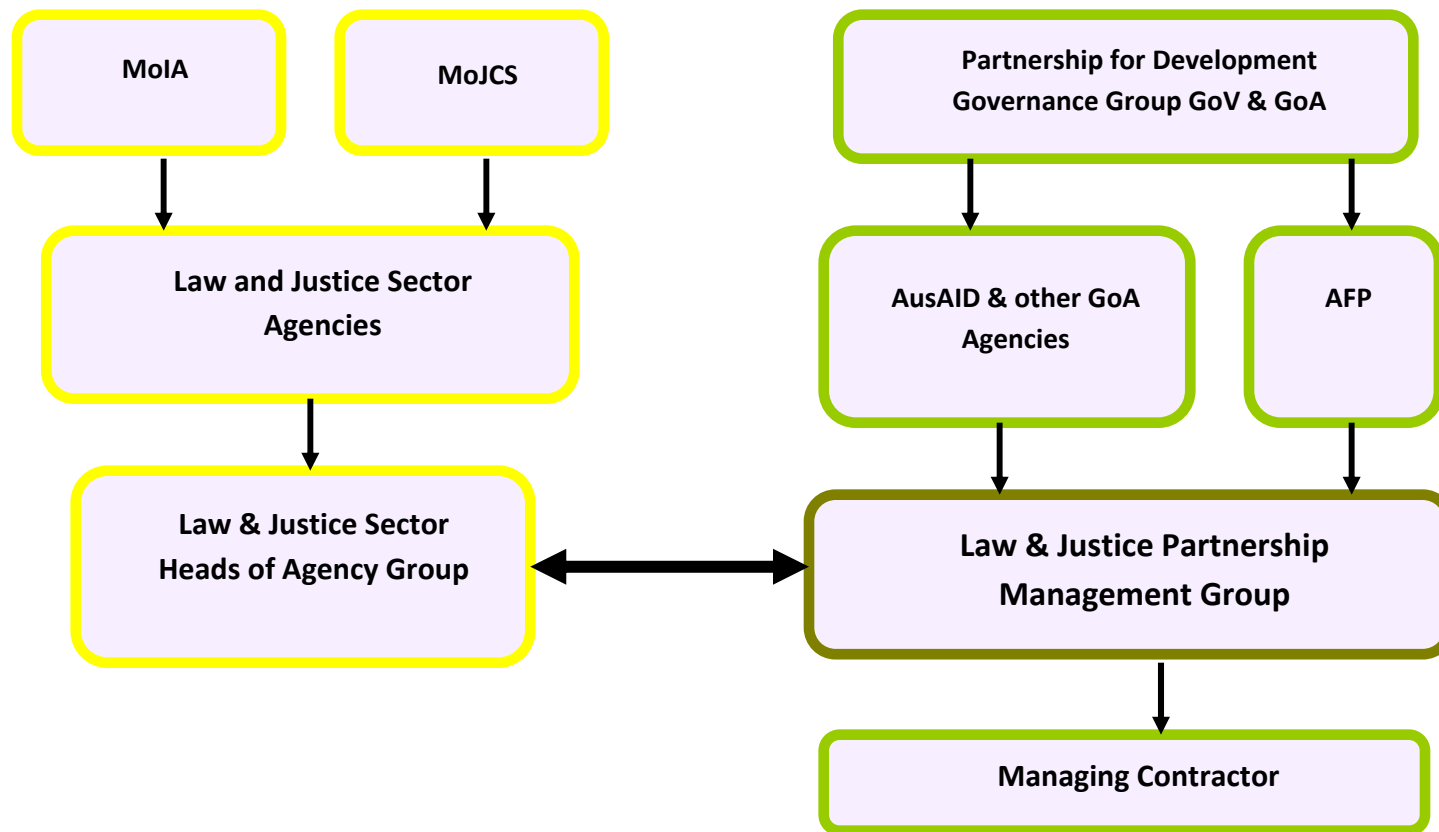
- Provide logistical support and oversight of procurement as appropriate
- Manage disbursement of all GoA funds under the partnership

Performance monitoring and reporting services

- Provide regular progress and financial reports to the PMG and the Heads of Agency Group

The proposed management and governance arrangements are illustrated below in Diagram 1.

Diagram 1: Law and Justice Partnership - Governance and Management Structure



Annex 9: Partnership Management Staff (Deliberately left blank)

Annex 10: Risk Matrix						
Risk	Impact on Program	Likelihood	Consequence	Risk level	Mitigation	Responsibility
In Partnership design						
The GoV will not be able to complete a costed implementation plan	Years 2-4 of program not clarified	4	3	H	Include a decision point for AusAID and GoV to decide whether to proceed with Stage Two	GoV
GoV leadership does not support sectoral approach throughout 2011	Inability to achieve sectoral coordination	2	4	H	Closely monitor GoV leaderships and adapt design for Stage Two to reflect reality	GoV and MC
Relationships between agencies in sector not sufficiently collaborative	Unable to achieve shared plan by end of September 2012	3	3	H	Leadership by GoV supported by Program Coordinator	GoV
Excessive focus on Port Vila agencies	Program remains irrelevant to majority of population Lack of attention to access to rural services	4	2	H	Leadership by GoV supported by Program Coordinator To be addressed in design for Stage Two	GoV and MC
Insufficient GoV leadership in sector or individual offices	Over-dependence on external personnel to achieve priority objectives and tasks	3	2	M	Decision to be taken at end of Stage One, whether to proceed to Stage Two if leadership is sufficiently poor or MC unable to achieve objectives	GoV, MC and AusAID
Ni-Vanuatu lawyers not available or sufficient to meet offices' demand	Ability of Partnership to reduce TA personnel in long term is reduced	4	2	H	Partnership to prioritise efforts to promote increased numbers of ni-Vanuatu law graduates/recruitment and retention in public sector	All partners
GoV budget not allocated or sufficient to support GoV's leadership of sector and implementation of priorities	GoV is not sufficiently resourced to manage sectoral coordination activities	2	2	L	GoV has already demonstrated ability to coordinate without a great deal of budget resources. This design allows for funding for meetings if required.	GoV and MC
The broadening of sector scope will result in too diffuse Partnership	Spread of activities may be too thin to make a useful contribution to specific objectives	3	2	M	All partners to maintain vigilance in monitoring to ensure GoA contribution is meaningful and well-targeted	GoA and GoV
In Partnership management						
Delays in contracting new MC and personnel	Delays in commencement, loss of momentum	2	3	M	Continuation of contract for current Team Leader to end of Stage One	AusAID
Difficulty in finding appropriately skilled TA personnel	Continuity of support to key offices is interrupted	2	3	M	Acceptance that there could be delays associated with next phase to ensure appropriate personnel are selected	AusAID, GoV and MC
Poor establishment or breakdown in relationships between MC	Poor coordination and communications and delays	2	4	H	Joint selection of MC and personnel by GoV and AusAID.	AusAID, MC and GoV

,GoV, AusAID and other GoA partners					6-monthly review of personnel	
Slow commencement of activities	Inability to prepare plans for Stage Two	3	3	H	Careful selection of managing contractor and personnel	
TA Personnel are unable to find appropriate balance between capacity devt. and in-line work	Continuing dependence on external personnel for in-line duties	4	3	H	May need to support GoV to recruit in-line personnel separately so Partnership is less involved with direct legal cases	AusAID and GoV
TA Personnel spend excessive proportion of time on direct work rather than capacity development	Delays in achievement of self-reliance by key law agencies	4	2	H	Careful selection of personnel with focus on capacity development Ongoing support by project for TA to strengthen CD approach	MC and GoV
VPFCBP design and implementation are not sufficiently consistent with this Law and Justice Partnership to facilitate coordination	Lack of coordination between GoA contributions to GoV sector management	3	3	H	GoA agencies to make concerted efforts to maximize coordination and cooperation consistent with GoA commitments	AusAID and other GoA agencies
In the environment						
Change of GoA priorities	Reduced funds for Law and Justice Partnership or decision not to proceed with Stage Two	1	3	M	Negotiation between GoV and GoA at Partnership level	GoA and GoV
Levels of corruption in Government affecting allocation of resources	Reduced GoV funds for Sector and inability to achieve objectives					
Change of GoV in 2012 election	Possible change in priorities	3	2	M	Monitoring of GoV priorities	GoV
High, albeit decreasing, population growth rates vs static or reducing budget	Increase in crime rates Inability of sector to meet growing demand for legal services	3	3	H	Design includes support for GoV to develop policies to strengthen role of <i>kastom</i> law in dealing with local issues	
Significant inter-island transport and logistics challenges associated with geographical isolation and access to L&J services	Inability of central agencies to reach majority of population	3	3	H	GoV to increase efforts to ensure existing services reach rural areas GoV to implement policies to strengthen role of <i>kastom</i> law in dealing with issues outside urban areas	
Natural disaster	Delays to implementation due to shift in focus in focus to emergency recovery	2	2	M	Emergency response plan developed by MC	MC
Code: Likelihood: 5 expected to 1 unlikely Consequence: 5 Significant impact to 1 low impact Risk Level: E= Extreme, H = High, M = Moderate, L = Low						

Annex 11: Summary of VLSSP Mid Term Review

1. Summary of 2008 MTR findings and recommendations:

1.1 Summary of Key Findings

- Project Annual Plans were developed by taking key activities from the business plans of each office that aligned with the VLSSP objectives and identifying them for program support. The effectiveness of this strategy was lessened by lack of GoV ownership of the business plans and lack of a sector wide strategy.
- The VLSSP had had a significant impact on the three public legal offices, and that as a result each office was able to handle their routine workloads relatively well.
- At a sectoral level the project had had little impact.
- Impact on access to justice was limited due to concentration of VLSSP activities in Port Vila
- GoV establishment of the Ministry of Justice and Social Welfare had enlarged opportunities for sector wide engagement.

1.2 Summary of Findings by Component

Component 1 objective: To improve corporate governance of the Public Legal Offices including the development/ revision of policies.

The review found that the VLSSP has had limited success in the area of corporate governance and that this was reflective of GoV's lack of structures and processes for the governing of statutory bodies. Although business plans have been developed, GoV counterparts confirmed that this was largely for the purpose of securing funding through the VLSSP annual planning process rather than strategic management.

Component Objective 2: To enhance human resource and financial management policies and procedures to improve the effectiveness of resource use within each of the Public Legal Offices.

- Assistance in the area of financial management has been successful through the development of procedure manuals, simplified transaction processes and assistance in the preparation of budget submissions
- Assistance in the areas of human resource management had been less effective. This was partly attributed to the fact that as constitutional bodies, the three public legal offices do not fall neatly within public service commission policies and procedures.
- Training in basic skills and professional standards have seen positive results.

Component Objective 3: To enhance case management and IT systems within each of the Public Legal Offices.

- the most effective efforts to improve case management have been through the efforts of individual advisers such as developing precedent banks, standard-form templates and checklists.

- Changes involving office workflow or larger organisational change were limited.
- Professional development of legal staff is the area where achievements under the VLSSP are most visible. Young lawyers in each office have the skills, confidence and professional attitude to manage their routine workload. This was largely to the mentoring and support that has been provided through technical advisers.

Component Objective 4: To enhance the professionalism of legal staff within each of the Public Legal Offices.

- whilst the intern program was highly successful it appeared unlikely to be sustainable given the limited number of Ni Vanuatu law graduates each year.
- Some concerns surrounding the overseas placement program suggesting that staff are sent too early in their careers to truly benefit from the experience.
- In house and Vanuatu based training is the most appropriate and effective strategy.

1.3 Findings re Sustainability

- A lack of leadership across the sector and poor management structures resulted in weak ownership of activities.
- VLSSP has become a supplementary fund for any project or activity that the offices wish to undertake and individual office budgets seem to be reserved for recurrent costs only. Because of this it is sometimes unclear what the project can and can't fund.
- Significant elements of the assistance have been supply-driven, and appear not to have been seen as particularly relevant by the counterparts.
- Nonetheless, the core of the support – the provision of advisory assistance – is clearly both needed and welcomed.
- Although the project was designed to be complementary to other assistance for the police, judiciary and corrections services, all donor assistance to the sector appears to focus primarily on the organisational needs of the counterpart institutions, and not on systemic problems across the sector.¹⁶

¹⁶ It is notable that some initiatives taken by the VLSSP to address wider sectoral issues, such as the Community Legal Centre and the emergency support provided in the wake of the courthouse fire, arguably fall outside the project's own purpose statement.

1.4 Findings against 2000 analysis of the sector

2000 baseline	Changes to 2008
Public legal offices	
Inadequate budgets	Substantially improved. Budget allocations have progressively increased, and are now adequate to cover basic operations. However, no GoV budget is yet available for development activities, including improving premises, investing in IT systems or establishing provincial operations. Some recurrent costs, including training costs and the cost of internal travel for court circuits, are still being met by VLSSP.
Inadequate and insecure premises	Partly addressed. The most urgent problems were addressed in Phase I and II of the project, but the major infrastructure component has not yet been delivered.
High staff turnover due to inadequate salaries, leading to staffing shortages and skills gaps	Substantially improved, owing to increased salaries and a lack of alternative opportunities for lawyers in private practice.
Junior lawyers with inadequate skills and a lack of professional standards	Substantially improved through mentoring and training, but continuing skills development is still required.
Lack of IT and other equipment	Partially resolved. The project has provided some basic IT and other equipment, but investments in more sophisticated IT-based case management systems have been deferred.
Lack of staff supervision and managerial support	Not resolved. Managerial weakness in all three offices remains a major constraint on organisational performance.
A lack of effective case-management systems, including file creating, tracking and retrieval systems	Not resolved. File management remains manual and ad hoc. Some incremental improvements were introduced by the project, but these have not been sustained.
A lack of systems for scheduling filing and appearance dates	Not resolved. Offices still rely on manual calendars, and missed appearances and filing dates remain a problem (partly due to poor court registry practices).
A lack of management information on caseloads and workflow	Not resolved. There are no systems in place for generating routine performance data, and there is no practice of using data for management purposes.
Lack of office procedures and manuals	Partially resolved. Project has produced various products, but take-up by staff remains limited.
A lack of capacity for business planning and budgeting	Partially resolved. New systems and training for financial officers have led to improved capacity to prepare budget submissions. Project has provided training on planning, but the annual planning cycle has limited traction.
Lack of physical presence on other islands	Marginal improvement. Project has assisted with stationing a state prosecutor and public solicitor on Santo. However, there is as yet no clear policy or plan for expanding access to justice at provincial level, and no resources have been identified.

The legal system in Vanuatu	
Justice system as a whole under considerable stress and not performing to capacity	Some improvement. Police and three public legal offices better equipped to handle routine workload. However, judicial system remains under substantial stress, due to the shortage of judges, inefficient procedures and the courthouse fire.
Government lacks ready access to adequate legal advice	Some improvement. Project has provided in-line support on complex matters, and has increased the capacity of SLO lawyers to handle routine matters. However, GoV clients continue to express significant reservations on the quality and timeliness of service provided by SLO.
Lack of public awareness of the legal system	No data available. Project has supported some public awareness activities via the USP Community Law Centre. Other NGO-based projects also active in the area. However, lack of access to justice outside Efate and Santo means that public knowledge of formal legal system is likely to be limited.
Lack of affordable legal advice	Significantly improved on Efate through expanded capacity of PSO, the establishment of the Community Law Centre and the work of women's NGOs such as the Vanuatu Women's Centre. Little or no change on other islands.
Inadequacies in substantive laws, including conflicts among different sources and outdated colonial-era legislation	Partly addressed. There was a major law reform effort through the Comprehensive Reform Program, but implementation of many new laws remains weak. Law Commission has not yet been established, and there is no on-going programme of law reform.
Lack of access to legislation and court decisions, including lack of availability of legal materials in Bislama	Significantly improved through the work of PaCLII, with some support from VLSSP.
Limited competition and lack of regulation in the market for legal services. No requirements for professional indemnity insurance, continuing legal education.	No change. Legal Practitioners Act was drafted with technical support under Phase II and passed by parliament in November 2005, but has not been gazetted.
Lack of effective communications and cooperation between justice institutions, esp. between police and prosecutors, and between public legal offices and courts	Little improvement. Some practical cooperation has been established between the police project and VLSSP, but the law and justice system remains fragmented.
Shortcomings in the way the courts list matters	No change.
Unclear relationship between formal and customary law	Some developments in the area of customary land and family law, but major issues still need to be resolved. This is likely to be a long-term process.

1.5 Recommendations

The Review team recommended a reorientation of the program into three streams aimed at putting in place some of the building blocks for a programmatic approach to the sector. This reorientation of the support was designed to

- rationalise and clarify existing delivery arrangements;
- improve GoV ownership and leadership of the assistance by strengthening MoJ capacity to manage and coordinate capacity-building support across the law and justice sector;
- encourage and support MoJ to take on a policy development role for the law and justice sector;
- provide a staged transition towards more programmatic assistance in the future.

The three streams and recommendations for each were:

Stream 1: Targeted advisory support to the three public legal offices

Incorporating components 3 and parts of component 4

- to enhance case management and IT systems within the Public legal offices
- to enhance the professionalism of legal staff within the Public legal offices through mentoring and in-line advisory support

The recommended approaches to Stream 1 included:

- GoV, NSWAGD and AusAID to agree ‘principles of engagement’ for the advisors, building on the existing VLSSP Technical Adviser Policy. These principles should provide greater transparency on the proper roles of the advisors, and the balance between their in-line and capacity-building functions.
- Strengthen the project’s capacity-development approach, to improve the quality of engagement on organisational development.
 - engage the heads of office in a dialogue about what kinds of capacity-building support they want;
 - Second, the heads of office should be encouraged to articulate a limited number of practice-management priorities for which they need assistance from the project.
 - Third, AusAID or the project should provide the advisors with additional training and support on appropriate capacity-building approaches.

Stream 2: MoJ-managed organisational development and CLE

Incorporating components 1 & 2 and elements of component 4, provided to all public-sector law and justice institutions

- to improve corporate governance across the law and justice sector

- to enhance human resource and financial management policies and procedures to improve the effectiveness of resource use across the law and justice sector
- to enhance the professionalism of legal staff across the public sector through continuing legal education programmes

The recommended approaches to Stream 2 included:

- Offer to GoV to make the MoJ the primary counterpart for the management and coordination of this support.
- Extend support beyond the three public legal offices, across the sector on a demand-driven, quasi-competitive basis, in accordance with funding criteria agreed between AusAID and GoV.
- Consultatively develop eligibility and funding criteria under this stream.
- AusAID should work with MoJ and PMO to establish a Budget Committee, to make decisions about funding under this stream, in accordance with the agreed funding criteria.
- The VLSSP Team Leader to provide management and coordination support to the MoJ for its functions under this stream, and provide secretariat support to the Budget Committee.
- Open discussions with MoJ and the PMO regarding the relocation of the Team Leader to the MoJ as soon as possible.
- Financial management of funding under this stream should be done as far as possible in conjunction with MoJ, and in such a way as to build MoJ capacity to provide assistance of this type to law and justice institution.
- Ask MoJ to develop a CLE strategy, in consultation with the three public legal offices and other law and justice institutions.
- Focus on Vanuatu-based training activities for junior staff. Overseas placements and courses should be limited to more senior staff, to prepare them for management roles.

Stream 3: Cross-sector and thematic initiatives

Proposed new focus area including:

- promotion of law and justice sector coordination by fostering practical operational linkages among legal institutions
- support for policy-related research and analysis to inform strategic directions for the law and justice sector as a whole

The objectives of this funding stream should include:

- promoting policy development and policy coherence across the law and justice sector;
- promoting the development of operational linkages and practical coordination structures across the sector;
- improving coordination among different donor assistance in the sector;
- strengthening the capacity of MoJ to lead on aid coordination and the development of the sector.

The recommended approaches to Stream 3 included:

- AusAID should work with MoJ and PMO to develop simple funding criteria for assistance under this stream
- MoJ should take the lead role in identifying activities for support, in consultation with key government and non-government stakeholders.
- On-going activities such as support to PaCLII and the USP Law Clinic can be accommodated within this funding stream, as well as support for planned projects such as the establishment of the Law Commission, changes to drug laws and new bail procedures.
- Activities under this stream may be directly implemented by MoJ, with the support of VLSSP, or else funding passed to other agencies for implementation, under MoJ supervision. The assistance may include capacity building support, where required.
- The VLSSP Team Leader should assist the MoJ in consulting with sector stakeholders, and in the preparation of implementation plans for funded initiatives.
- Over time, MoJ should be supported to lead on developing GoV governance and coordination structures, including where appropriate inter-agency teams to oversee particular activities.

Other recommendations

- GoV and GoA to develop a shared vision for the next phase
 - Should it remain focused on the stabilisation and gradual development of the three public legal offices, using in-line support and traditional project-delivery modalities?
or
 - Should it evolve into a more strategic engagement with the law and justice sector as a whole, using more programmatic forms of assistance?
- Undertake an extended flexible design process that fully involves the MoJ and supports the emergence of its capacity to lead the sector.
- If effective MoJ leadership of the sector has not emerged by the end of the current project cycle, and does not appear likely in the near future, then it may be appropriate either to discontinue the assistance, or to reduce its scope and level of ambition, focusing purely on stabilising strategic justice institutions through in-line and mentoring support.
- If, however, a genuine partnership in the development of the sector is emerging, then AusAID may opt to work with MoJ and other donors to undertake a more strategic approach to the development of the sector as a whole.
- The Project Coordination Committee (PCC) should meet once a year to endorse the Annual Plan. The PCC should consider establishing a monitoring committee, made up of MoJ, PMO and AusAID, to meet more regularly to review progress in implementing these new arrangements, and to make any necessary adjustments.

Annex 12: Capacity Development methods – strengths and risks

OPTIONS	STRENGTHS ¹⁷	POTENTIAL RISKS	IMPLICATIONS FOR L&J ¹⁸
Technical Assistance			
Inline	<ul style="list-style-type: none"> • Provides opportunity to stabilise functions and/or fill short term gaps that challenge overall system efficiency • Access to highly experienced expertise • Access to specific expertise 	<ul style="list-style-type: none"> • Limited capacity building opportunities • Can promote internal dependency • TA may impose inappropriate systems and procedures which are based on their experience in other foreign environments • TA may not understand the relevance of cultural values to their work • TA may not have deep understanding of government systems or processes • TA may have greater loyalty to contactor than local host • TA may have conflicting obligations between the contractor and GoV agency • Undermining of local capacity development • Undermining local authority and responsibility 	<ul style="list-style-type: none"> • Heads of Agency Group and PMG determine overall TA complement and approach • Heads of Agencies determine specific agency needs, and monitor performance and benefits over time • Clear overall plan and exit strategy needed (including appropriate phasing out of TA) • Need for clear delineation of contracted responsibilities and period of contract • Need for a clear set of selection criteria for specific positions • Heads of Agency Group and PMG monitor overall benefits over time
Advisors	<ul style="list-style-type: none"> • Opportunity for capacity building (eg mentoring and training) • Affirming for colleagues • Opportunity to contribute to 	<ul style="list-style-type: none"> • Unsuitable selection and placement could promote internal conflict • TA may impose inappropriate systems and procedures which are based on their experience in other foreign environments 	<ul style="list-style-type: none"> • Heads of Agency Group and PMG determine overall TA complement and approach • Heads of Agencies determine specific agency needs, and monitor

¹⁷ The outlining of strengths are clear generalisations; recognition of individual capacity needs to be made

¹⁸ Criteria need to be established for selection of all options

OPTIONS	STRENGTHS ¹⁷	POTENTIAL RISKS	IMPLICATIONS FOR L&J ¹⁸
	<ul style="list-style-type: none"> • broader organisational development agenda • Access to highly experienced expertise • Access to specific expertise 	<ul style="list-style-type: none"> • Undermining • TA may have greater loyalty to contactor than local host • TA may not have deep understanding of government systems or processes • TA may have conflicting obligations between the contractor and GoV agency • Undermining of local capacity development • Undermining local authority and responsibility 	<ul style="list-style-type: none"> • performance and benefits over time • Need for advisors to operate under organisational development plan rather than at individual level • Clear overall plan and exit strategy needed (including appropriate phasing out of TA) • Need for clear delineation of contracted responsibilities and period of contract • Need for a clear set of selection criteria for specific positions • Heads of Agency Group and PMG monitor overall benefits over time
<p>Volunteer</p> <p><i>Inline and Advisory</i></p>	<ul style="list-style-type: none"> • Access to relevant expertise • Personnel more often motivated by position rather than financial remuneration • Volunteer may have specific expertise • Likely strong interest and capability in working cross-culturally, contributing to effective working relationships and appropriate advice • Relatively low financial cost 	<ul style="list-style-type: none"> • Level of experience varies depending on volunteer program eg • Personnel may be regarded as less capable because they are paid less, even though skills and experience may be similar • Brings in another agency involved in personnel placement 	<ul style="list-style-type: none"> • Relative costs of full consultants and volunteer agency sourcing need to be considered vis a vis other tools • Consideration about performance management approaches needed • Joint monitoring will be preferred • Need for a clear set of selection criteria for specific positions • Need for clear delineation of contracted responsibilities and period of contract
<p>Mentoring or coaching</p>	<ul style="list-style-type: none"> • Focused on real and current issues • Individuals can be matched 	<ul style="list-style-type: none"> • Mentor and person being mentored may not be well-matched • Mentor may not have good understanding 	<ul style="list-style-type: none"> • While many people consider mentoring and coaching to be an alternative to training, or an obvious

OPTIONS	STRENGTHS ¹⁷	POTENTIAL RISKS	IMPLICATIONS FOR L&J ¹⁸
programs	<ul style="list-style-type: none"> • on agreed criteria • Particularly suitable for senior personnel with specific or general leadership learning objectives • Can be long-term 	<ul style="list-style-type: none"> • of local context and cultural influences • Mentor may not have cross—cultural skills • Mentors may not have skills in learning and development processes (may be technically strong) 	<ul style="list-style-type: none"> • role for advisors, careful consideration needs to be given at individual level for such approaches to be relevant, particularly in relation to cross-cultural understanding
Shared Learning			
Exchanges with other organisations or other countries	<ul style="list-style-type: none"> • Opportunity to strengthen sectoral partnerships within the region • Opportunity for key GoV agency members to participate in focused professional development • Provides opportunity for participants to gain ‘hands on’ experience 	<ul style="list-style-type: none"> • Potential pressure on local labour needs due to absence during exchange visit • Issues of effectiveness ie equivalent positions in organisations/agencies outside the Vanuatu context may not have the same ‘on the job’ requirements • May not results in changes in practice 	<ul style="list-style-type: none"> • Clear partnership arrangements needed with coordinating organizations/institutions • Suitable organizations/institutions/agencies to be located • HR personnel required for administration and coordination • Ensure exchanges are part of a broader organisational development plan
Study tours to other countries	<ul style="list-style-type: none"> • Opportunity for selected GoV agency members to participate in focused professional development • Opportunities for specific practical learning about current challenges or approaches • If countries share similar cultural values, 	<ul style="list-style-type: none"> • Inappropriate selection of personnel leads to low benefits for agencies • Study tours can be expensive relative to benefits • Study tours can be very time-consuming and take a long time to organize to make them successful • May be difficult for participants to identify how to apply lessons learned without ongoing coaching and leadership support 	<ul style="list-style-type: none"> • Study tours could be selected if there is clear benefit envisaged for an agency in relation to a specific issue or objective • Study tours should not be a core activity given their cost, time and risk of interruption to agencies’ core work, but can be considered if there are adequate logistics resources available

OPTIONS	STRENGTHS ¹⁷	POTENTIAL RISKS	IMPLICATIONS FOR L&J ¹⁸
	<p>opportunities to witness relevant successes and adaptations</p>	<ul style="list-style-type: none"> • Taking key officials from their day-to-day roles can disrupt core agency work 	
International Conferences	<ul style="list-style-type: none"> • Exposure to international practices and current tools • Opportunity to learn from the experiences of other countries • Opportunity to develop relationships with other organizations, agencies and individuals in the Pacific and beyond • Provides opportunity to build a strengthened focus within the sector 	<ul style="list-style-type: none"> • More expensive than local seminar/forums • Identifying appropriate timing to suit work schedule of those involved (keeping in mind the day to day high intensity of work for many of the core participants) 	<ul style="list-style-type: none"> • Experienced HR team required to coordinate and organise events • Clear identification of goal, purpose, process required • Identification of appropriate invitees ensuring equal representation of women and men
Seminars, forums and workshops	<ul style="list-style-type: none"> • Provides opportunity for key actors to develop partnerships across the range of stakeholders • Provides opportunity to explore and discuss ideas, make collaborative plans, identify cross-sectoral links • Provides opportunity for all stakeholders to develop a more in-depth understanding of core issues 	<ul style="list-style-type: none"> • Benefits may not be sufficient to justify cost/effort • May not result in changes in practice 	<ul style="list-style-type: none"> • Clear identification of goal, purpose, process required • Personnel for administration and organization of events • Identification of appropriate invitees ensuring equal representation of women and men

OPTIONS	STRENGTHS ¹⁷	POTENTIAL RISKS	IMPLICATIONS FOR L&J ¹⁸
	<p>and risks affecting the variety of participants, both women and men, in the formal and traditional justice systems</p> <ul style="list-style-type: none"> • Provides opportunity to promote the work of the sector more broadly 		
Organisational Twinning Arrangements	<ul style="list-style-type: none"> • Provides capacity development opportunities through mentoring and other means • Provides increased opportunity for partners to develop greater trust and understanding • Provides heightened opportunity for professional growth 	<ul style="list-style-type: none"> • Unsuitable selection and placement could promote internal conflict • Driven by foreign agency's resource capacity and planning agenda • Participating partners may not understand the relevance of cultural values to their work • Participating partners may not understand principles of and/or have experience with capacity development approaches • Issues of effectiveness ie equivalent positions in organisations/agencies outside the Vanuatu context may not have the same 'on the job' requirements • Usually short term with strong focus on technical assistance 	<ul style="list-style-type: none"> • Ensure twinning arrangements are part of a broader organisational development plan • Need for negotiation of expectations, contracted arrangements and timing • Suitable organizations/institutions/agencies to be located • Clear partnership arrangements needed with coordinating organizations/institutions • HR personnel required for administration and coordination • Heads of Agency Group and PMG monitor benefits over time • Participating partners to undertake performance review, which are monitored the appropriate Heads of Agency

Training			
In-house	<ul style="list-style-type: none"> • Builds capacity of individuals operating within an agency or organization • Ability to reach a wide range of participants • Can provide focused professional development representative of the current needs • Provides leadership training to the those involved in providing the training • Opportunity to strengthen relationships within an office, agency, organization • Minimal financial outlay • Ultimate quality control lies within the agency/organisation 	<ul style="list-style-type: none"> • Availability of appropriate skilled personnel to design and implement contextually-relevant training programs may be limited • Training on its own does not necessarily bring about change 	<ul style="list-style-type: none"> • Need overall agency workforce plan to prioritise professional development needs • Identification of appropriate participants ensuring equal representation of women and men • Long term plan ensuring prioritisation of areas of need and timely implementation and follow up occurs
External (customised)	<ul style="list-style-type: none"> • Provides opportunity to strengthen capacity of an individual, group, organization or agency • Opportunity to create training programs directly relevant to GoV priorities 	<ul style="list-style-type: none"> • Availability of appropriate and skilled personnel to design and implement training programs • Potential pressure on other training programs due to the need to work with currently operating trainers, which may also have a negative impact on quality 	<ul style="list-style-type: none"> • Need overall agency workforce plan to prioritise professional development needs • Identification of appropriate participants ensuring equal representation of women and men • Long term plan ensuring prioritisation

	<p>Provides some level of immediate and tangible support to the sector</p> <ul style="list-style-type: none"> • Opportunity to develop further in-depth knowledge to support informed policy and decision making • Opportunity to draw on expertise from outside actors 	<ul style="list-style-type: none"> • Training on its own does not necessarily bring about change • More expensive than in-house training 	<p>of areas of need and timely implementation and follow up occurs</p> <ul style="list-style-type: none"> • Clear plan ensuring equal access and opportunity is provided to participants in all wards, districts and provinces
External (non-customised)	<ul style="list-style-type: none"> • Opportunity to support current training programs • Able to select programs that have already demonstrated success and therefore have some guarantee of quality implementation • Opportunity to support current training initiatives rather than install parallel programs • Less risk of placing excessive pressure on available and skilled trainers 	<ul style="list-style-type: none"> • Capacity and scope of current programs to broaden current training commitments • Trainers may not adapt core material to suit the changing contexts • Training on its own does not necessarily bring about change • More expensive than in-house training 	<ul style="list-style-type: none"> • Need overall agency workforce plan to prioritise professional development needs • Identification of appropriate participants ensuring equal representation of women and men • Long term plan ensuring prioritisation of areas of need and timely implementation and follow up occurs
Scholarships	<ul style="list-style-type: none"> • Investment in future local expertise • Supports sustainable development of sector • Opportunity to develop relationships with training institutions in the Pacific 	<ul style="list-style-type: none"> • Pressure on local labour needs due to personnel absence during period of scholarship • Potential lack of relevance in training to Vanuatu context • Language and cultural pressures experienced in foreign environments, impacting on the individual's capacity to 	<ul style="list-style-type: none"> • Clear partnership arrangements needed with coordinating organizations/institutions • Suitable organizations/institutions/agencies to be located • HR personnel required for identification, collaboration,

		learn	coordination and liaison with all stakeholders
Training of Trainers	<ul style="list-style-type: none"> • Can help to localize learning processes and reduce dependence on external trainers • Extends reach of training • Provides opportunities for trainers to gain skills and knowledge 	<ul style="list-style-type: none"> • If not supported over long-term, eg by funding and organizational learning system, trainers can lose interest • Training can become out of date or irrelevant as circumstances change • Demand for specific training may not exist over time 	<ul style="list-style-type: none"> • Where few professional development systems exist, may not be worth investment in law and justice sector • courses needed in the sector
Research			
Use of pre-existing research	<ul style="list-style-type: none"> • Opportunity to increase knowledge on specific law and justice issues prior to committing resources • Minimisation of 'consultation fatigue' • Greater efficiency in data collection • Opportunity to support current initiatives rather than install parallel processes 	<ul style="list-style-type: none"> • Purpose and focus of research may not match GoV's priorities • Performance management and quality control outside the program's authority 	<ul style="list-style-type: none"> • Further dialogue with core programs to occur, to identify focus, timeframes, scope, funding mechanisms, funding needs etc • Heads of Agency Group and PMG monitor overall benefits over time
Commissioned	<ul style="list-style-type: none"> • Opportunity to develop further in-depth knowledge to support informed policy and decision making • Ultimate quality control lies with GOV • Ability to select topics of direct relevance to GoV's 	<ul style="list-style-type: none"> • Many communities already experiencing 'consultation fatigue' • Operating in parallel to other pre existing programs • Availability of appropriate and skilled personnel to design and implement research programs • Can be expensive without obvious 	<ul style="list-style-type: none"> • Discussion on core areas of need by Heads of Agency Group and PMG, necessary to guide further policy review and sectoral decision making • Long term plan ensuring prioritisation of areas of need and timely implementation and follow up occurs • Heads of Agency Group and PMG

	<p>priorities</p> <ul style="list-style-type: none"> • Opportunity for ni-Vanuatu participation 	immediate benefits	monitor overall benefits over time
Others			
Infrastructure	<ul style="list-style-type: none"> • Supports efficiency and access issues of circuit courts (eg through housing, courthouses etc) • Provides opportunity to stabilise systems and/or fill short term gaps that challenge overall sector • Can support local labour market (assuming local expertise is contracted) 	<ul style="list-style-type: none"> • May be difficult for GOV to financially meet maintenance needs • The cost-benefit may not be appropriate for the context • May be limited GOV capacity to manage and maintain an increased asset base 	<ul style="list-style-type: none"> • Long term infrastructure planning to be identified by GoV • Budgeting for long term recurrent cost implication (eg maintenance, utilities) of infrastructure must be considered • Long term asset management and maintenance capacity should be considered
Budget Support	<ul style="list-style-type: none"> • GoV is able to allocate funds to support own defined priorities using existing systems of approval, accountability and monitoring • Supports GoV leadership • Promotes efficiency through use of existing systems 	<ul style="list-style-type: none"> • Donors have limited control over budgetary allocation • Donors have limited quality control • May inhibit more strategic thought in alternative mechanisms to support development in the sector • Potentially distorting of obligations within the relationship 	<ul style="list-style-type: none"> • Clear agreements to be negotiated between GoV and the respective donor • Long term plan ensuring prioritisation of areas of need and timely implementation occurs • Fiduciary assessments will be required

Annex 13 People Met by Design Team

Name	Position
Kirsten Bishop	Law and Justice Adviser, AusAID, Canberra
James Ghaeni	Legal Officer, Pacific Section Commonwealth Attorney General's Department
Patrick Dodgson	Assistant Secretary, Office of Legislative Drafting and Publishing, Commonwealth Attorney General's Department
Melissa Stutsel	Gender and Development Advisor, Ending Violence Against Women, AusAID, Canberra
Barbara O'Dwyer	Gender and Development, AusAID, Canberra
Carolyn Langley	Manager International Program, International Team, Commonwealth Ombudsman
Steve Kaleb	Vanuatu Desk, Pacific Branch, AusAID, Canberra
Warwick Soden	CEO & Registrar, Federal Court of Australia
Lorraine Morgan	Program Manager, Pacific Police Development Program, International Deployment Group AFP
Don Whinfield	Program Analyst, International Deployment Group, AFP
Paul Cartwright	Desk Officer, International Deployment Group, AFP
Nick Cumpston	Counsellor (Development Cooperation), AusAID, Vanuatu
Linda Gellard	1st Secretary, (Development Cooperation), AusAID, Vanuatu
Patrick Haines	Office Manager, AusAID Vanuatu
Obed Timakata	AusAID Program Officer
HE Pablo Kang,	High Commissioner, Australian High Commission Vanuatu
Charlene Watego,	Deputy Head of Mission, Australian High Commission Vanuatu
Bill Quaid	Team Leader, VPF Capacity Building Program
Chris Smith	Adviser, VPFCBP
Ron McFadyen	Adviser, VPFCBP
Dan Thomas	Regional Ombudsman Alliance (visiting 03 – 09 June 2010)
Elena Gimenez Beltran	Expert (Development Cooperation) European Union Delegation to Vanuatu
Adrien Mourges	Attache (Cooperation) European Union Delegation to Vanuatu
Michael Taurakoto	CEO & Program Manager, Wan Smol Bag
Maryanne Bani	Acting CEO, Vanuatu National Council of Women
Michelle Brazel	Team Leader, Vanuatu Legal Sector Strengthening Program (VLSSP)
Ari Jenshel	Adviser, State Law Office

Name	Position
Jenny Harders	Adviser, State Law Office
Bernard Standish	Adviser, Public Prosecutor's Office
Gordon Porter	Police Prosecutor's Department
John Claasen	NZAID Program Manager
Milena Stefanova	Justis Blong <i>Evriwan</i> , World Bank
Leisande Otto	Justis Blong <i>Evriwan</i> , World Bank
HE Bakoa Kaltonga	Minister of Justice and Community Services
Russell Nari	Director General, Ministry of Justice and Community Services
Robert Avio	First Political Advisor, Ministry of Justice and Community Services
Anthea Toka	Secretary General, Vanuatu Association of NGOs (VANGO)
Merilyn Tahī	Director, Vanuatu Women's Centre (VWC)
Sonia Wasi	Deputy Coordinator and Research, VWC
Davis Saravanu	Commanding Officer, Family Protection Unit, VPF
Chris Bleakely	Advisor, Governance for Growth
Josephine Kalsuak	Vanuatu Focal Point, RRRT
Pasa Tosusu	Ombudsman, Republic of Vanuatu
Jacob Kausiama	Acting Public Solicitor
Tom Loughman	Legal Officer, PSO
Alice Tabi	Finance Officer, Acting Office Manager, PSO
Inspector Krem Brihu	Police Prosecutor, VPF
Dorosdey Kenneth Watson	Director, Department of Women's Affairs
Jenny Ligo	Children's Officer, Department of Women's Affairs
Seman Delasa	Governance Officer, Department of Women's Affairs
Tina Ilo Noka	Gender Officer, Department of Women's Affairs
Chief Selwyn Garu	CEO Malvatumauri National Council of Chiefs
Russell Nari	Director General, Ministry of Justice and Community Services
Andrew Napuat	Human Resources Manager, MoJCS
In addition to 15 named above, the following people attended a design discussion on 18 June:	
Lenore Hamilton	Manager, PacLII, USP
Kayleen Tavoā	Public Prosecutor
Lent Tevi	Senior Prosecutor
Peter MacFarlane	Dean, School of Law, USP
Chris King	NZAID Corrections Project
Pelagie Maho	Transparency Vanuatu
Anusha Goonetilleke	Transparency Vanuatu
Jean-Pierre Tom	Corrections Service
Bill Bani	Vanuatu Law Society

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Annex 15: Quality Assurance Criteria for Plan for Stage Two of Partnership

A Plan of Partnership Activities for Stage Two will need to be developed in Stage One of this Partnership, by the Managing Contractor, to reflect priorities identified by GoV through the Heads of Agencies Group.

A Peer Appraisal process is proposed as a mechanism to ensure the Plan meets quality assurance standards. The Appraisal should be undertaken in Vanuatu, chaired by AusAID and include at least the following people:

- 2 Senior Representatives from GoV
- 1 representative from a non-GoV agency in the law and justice sector in Vanuatu
- 1 Senior Representative from AusAID
- 1 Senior Representative from AFP
- 2 Independent Appraisers with expertise in Vanuatu legal sector and contemporary aid effectiveness issues and approaches

The following criteria are proposed for assessment and ratings given against each criterion (where 1=unsatisfactory and 6=totally satisfactory):

1. Are the objectives in the new plan relevant to the Vanuatu context in 2012 and for the period to 2015?
2. Have the lessons from 2011-12 been analysed and incorporated into the plan for cooperation to 2015 and added to the lessons learned which were described in the PDD?
3. Will any arrangements for post-2011 implementation be feasible, practical, and effective?
4. Will the governance, management and contracting arrangements from 2011-12 be continued in Stage Two? If not, why not? What changes are proposed and are they appropriate?
5. What are the proposed approaches to contributing to capacity development among Vanuatu agencies and do they reflect contemporary approaches?
6. Is there a shared understanding about sectoral and Partnership monitoring?
7. How feasible is the proposed approach to monitoring post 2012? Is the approach likely to generate information that is meaningful and helpful for improved performance over time?

8. Is the plan for the Partnership in Stage Two likely to contribute to sustainable benefits for the law and justice sector in Vanuatu?
9. Does the partnership plan appropriately prioritise gender equality issues, perspectives, plans and processes?

If ratings with 4 and above are achieved for all criteria, then the Plan can proceed. If one or two ratings of 3 and below are given, then revisions may be requested