



NEW SOUTH WALES
ATTORNEY GENERAL

Submission 4

Senator Marise Payne
Chair
Joint standing Committee on
Foreign Affairs, Defence and Trade,
Parliament House
CANBERRA ACT 2600

27 NOV 2002

Dear Senator

I am writing in response to your invitation to lodge a submission to the Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region being undertaken by the Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Sub-Committee.

My Department is currently managing the Vanuatu Legal Sector Strengthening Program on behalf of AusAID, which promotes good governance in the public legal sector in Vanuatu.

I have attached a submission describing the details of the program and the future objectives. The program has made a substantial contribution to promoting good governance in Vanuatu by providing capacity building assistance to the legal institutions. The submission also discusses the challenges and obstacles to further progress.

Thank you for the opportunity to contribute to this important inquiry.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Bob Debus', written over the typed name.

BOB DEBUS

SUBMISSION ON THE VANUATU LEGAL SECTOR STRENGTHENING PROGRAM

Since 2000 the New South Wales Attorney General's Department has been managing the Vanuatu Legal Sector Strengthening Program on behalf of AusAID, which promotes good governance in the public legal sector in Vanuatu. In 1996 the Australian Government received a request from the Government of Vanuatu for assistance to its public legal sector. In 1999 AusAID completed a project design for strengthening the Vanuatu legal system.

The NSW Attorney General's Department with its expertise in the administration of justice was contracted to act as project manager in May 2000. A Strategic Review of the Vanuatu Legal Sector was undertaken in June 2000 and Phase 1 of the Program was implemented. In 2001-2002 a new Project Design divided the Program into three projects, funded by AusAID:

- the State Law Office Strengthening Project
- the Public Prosecutor's Office Strengthening Project
- the Public Solicitor's Office Strengthening Project

The Program has one Program Manager based in Sydney and the Director General of the Attorney General's Department, Mr Laurie Glanfield, is the Program Director. The Program Design involves placing Australian Project Coordinators in each of the three Offices in Vanuatu.

One of AusAID's two Key Result Areas for this Program is Promotion of Effective Governance, through its impact on strengthening legal systems and recognising the

importance of good governance as a pre-condition for poverty reduction and sustainable development. There are four common operational outputs for each project:

- effective and efficient management of the Office's legal services
- professional development of ni-Vanuatu staff
- establishment and maintenance of effective administration systems and
- development of effective relationships with other relevant agencies

A fifth output is a review of the legislative framework affecting the legal sector. The Attorney General's Department has produced a Legislative Review Report which makes recommendations for legislative reform that will:

- improve efficiency in the courts
- raise standards in the legal profession
- clarify rights and responsibilities.

In managing the project, the Department draws upon:

- the legal, administrative, technological and managerial expertise of its staff
- its length of experience in managing the State's legal institutions and the regulation of the legal profession
- its ability to assist the Vanuatu legal offices to forge relationships with relevant NSW agencies, such as the Crown Solicitor's Office, the Office of the Parliamentary Counsel, the Office of the Director of Public Prosecutions, and the Legal Aid Commission. All these agencies have agreed to support the project. Staff from several agencies have been seconded to work in the Vanuatu legal Offices and take part in transferring skills to the ni-Vanuatu staff.

The transfer of relevant skills from Australian advisers to ni-Vanuatu counterparts is crucial to the success of the project, if sustainable reform is to be achieved.

The State Law Office

The role of the State Law Office is to:

- draft legislation
- provide advice to the Government on treaties, contracts and other legal matters
- represent the Government in litigation
- manage the Financial Investigation Unit which administers the laws and collects information relating to money laundering and suspected financial frauds.

The Legal Sector Strengthening Program has addressed the problems facing the State Law Office by:

- assisting staff to develop simple and reliable administration and management systems
- installing networked computers in the office and providing training in their use
- appointing senior legal advisers in the advising, drafting and litigation sections to provide guidance and supervision to the junior lawyers
- enhancing its efficiency through mapping administrative systems and introducing new procedures and service standards, developing precedents and providing management advice
- encouraging the staff to develop needed skills and expertise through training and mentoring

The Public Prosecutor's Office

The prompt and fair performance of prosecutions is hampered in Vanuatu by a number of factors. The Project has initiated regular meetings between the PPO and the Vanuatu Police, and this has led to a protocol on prosecution responsibilities.

The Legal Sector Strengthening Program has addressed the problems facing the Public Prosecutor's Office by

- assisting staff to develop simple and reliable administration and management systems
- installing networked computers in the office and providing training in their use
- appointing a Senior Prosecutions Adviser to the Public Prosecutor

- enhancing its efficiency through mapping administrative systems and introducing new procedures and service standards
- encouraging the staff to develop needed skills and expertise through training and mentoring

The Public Solicitor's Office

The Public Solicitor's Office provides legal advice and assistance to the needy people of Vanuatu. At present the Public Solicitor's Office is severely understaffed. Its current office accommodation does not permit expansion.

New office accommodation has been identified as a major priority for 2002, and work has commenced on this. This will provide more staff accommodation, storage for files, and will allow the installation of networked computers.

Project staff have worked with ni-Vanuatu staff to improve administrative procedures and establish guidelines for legal assistance.

In addition the Project has supported the establishment of a Community Law Centre which is managed by the University of the South Pacific.

The Centre which opened in July 2002, provides practical legal training for students as well as free legal advice and assistance to the community in civil matters. Its clients are persons referred by the Public Solicitor who require advice rather than representation in court. It also distributes legal information to the public. The establishment of the centre has already reduced the client load of the Public Solicitor by approximately two thirds.

Future Project Objectives for the Program include:

- implementing an internship program to encourage ni Vanuatu law graduates to work in the public sector
- assisting in the development of policies and protocols, such as clear prosecution guidelines for the Public Prosecutor's Office
- training and mentoring staff in the use and development of benchmarking and management systems so that they can set goals and monitor progress
- providing ongoing legal, ethical and management training to staff
- conducting a study into the interaction of customary and Western law in Vanuatu
- extending support to the operations of the Public Prosecutor and Public Solicitor in the outer islands
- establishing and maintaining corporate service systems
- establishing effective records control

Achievements and Obstacles to further progress

Achievements in this area include the greater importance attached to the legal sector by the Government of Vanuatu as a result of the Program's initiatives. The Program has assisted in the production of important legislation for Vanuatu through the provision of a Senior Legislative Adviser. Policies and procedures in the three Offices now show a greater awareness of the need for client service, efficiency and accountability, and the Offices are able to report accurately on their activities to the Government. The Public Prosecutor and Public Solicitor have recognised the need to provide services on other islands, and have each opened an office on the second most populous island of Santo. Most ni-Vanuatu staff are enthusiastic to learn new skills and improve performance. The Government is receiving an improved standard of legal advice and representation from the State Law Office to assist it in its decision making and litigation. Relationships have been forged with New South Wales legal agencies which will provide valuable assistance to Vanuatu in the future.

Obstacles which hinder progress in the legal sector include:

- Vanuatu's geography, with its population scattered over a number of islands
- shortage of senior ni-Vanuatu lawyers who can act as leaders in the public sector and the profession. A leadership program is part of Phase 2 of the Program
- lack of regulation of the legal profession (legislation has been proposed)
- economic factors which lead to Government vacancies remaining unfilled, low salaries, lack of access to legal resources, shortage of equipment and resources for the public legal sector and the courts
- the interaction between customary and western law which has not been fully integrated
- insufficient justice policy support to the Government is an obstacle to the development of legislative and other initiatives to address justice issues.