PACIFIC CHOICE

Bridging the State–Society Gap

The Community Justice Liaison Unit of Papua Guinea

Asian Development Bank
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Bridging the State–Society

The Community Justice Liaison Unit of Papua New Guinea

by Tom Seta

Asian Development Bank
Capacity Development Series

This subseries is published by the Asian Development Bank to provide the governments of its Pacific developing member countries (PDMCs) with analyses and insights on key issues and lessons learned with respect to capacity development. Cases studied highlight a range of experiences throughout the region by sector, theme, and source of external support, revealing approaches to capacity development that work best and the conditions that have been conducive to their success. They also explore the unique challenges faced by PDMCs in addressing capacity constraints as well as some opportunities facing governments and the people in the Pacific islands. Among other things, the case studies underline the importance of PDMC leadership, engagement of local partners, strategic attention to long-term capacity issues, and effective use of external resources. We hope that the findings in these reports will help guide future capacity building efforts in the Pacific.

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## ACRONYMS

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<td>community-based organization</td>
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Despite 50 years of aid in the Pacific region, including some S$17 billion invested over the past 25 years, overall results in terms of sustainable improvements in capacity have been mixed, at best. This raises questions, not only in the Pacific but also throughout the developing world, about approaches to capacity development—what works, what doesn’t, and why? The Asian Development Bank (ADB) recognizes the importance of capacity development, having officially embraced it as a thematic priority in 2004. ADB’s commitment is consistent with the Paris Declaration on Aid Effectiveness and the Pacific Principles on Aid Effectiveness. The programs of a number of other funding agencies, including the Australian Agency for International Development (AusAID), New Zealand’s International Aid & Development Agency (NZAID), United Nations Development Programme (UNDP), and the World Bank also embrace the importance of more effective capacity development.

Increased interest in capacity development in recent years reflects an acknowledgment of the shortcomings in development assistance over the past 50 years. This has led to calls for approaches that are more systematic and integrated, and which focus more on developing country ownership and achievement of sustainable results. Capacity amounts to the policy, procedures, personnel, organizations, institutions, and supporting environment required to effectively deliver development outcomes. In particular, ADB has focused on the ability of public sector capacity to deliver essential services, thereby strengthening the compact between government, civil society, and the private sector. Capacity development is much more than just training or skills transfer. It is really about effective organizations and institutions, a sound unpoliticized policy environment, accountability systems, effective relationships, and appropriate incentives. And as noted in this study, capacity development should be firmly rooted in a country’s political economy.

To gain a better understanding of what works in terms of approaches to capacity development, ADB’s Pacific Department (PARD) commissioned a regional study in 2007. The study was rooted in 20 case studies from 11 countries across the region, prepared mainly by Pacific islands consultants. The case studies covered a range of programming experiences—from economic planning, to infrastructure development, health and legal sector reform, and civil society enhancement, as well as different modalities for supporting capacity development. ADB’s intent in commissioning the overall study was to draw upon the individual findings and recommendations to help guide future capacity building efforts in the Pacific, including institutionalizing a more focused and effective approach to capacity development in ADB’s country programs and operations.
The case studies in this subseries and the overall study report are the result of collaboration among a number of consultants working with ADB under the direction of Steve Pollard, principal economist, PARD. The team leader for the overall study was Joe Bolger, and the authors of the studies were Helio Augusto, Kevin Balm, Brian Bell, Ron Duncan, Ben Graham, Ueantabo Mackenzie, James McMaster, Samson Rihuoha, Cedric Saldanha, Tom Seta, Paulina Siop, Esekia Solofa, Kaveinga Tu’itahi, Henry Vira, and Vaine Wichman. The study also benefited from the input of a number of resource persons, including Tony Hughes (Solomon Islands), Lynn Pieper (Timor-Leste), Tim O’Meara (Samoa), and Patricia Lyon, senior capacity development specialist, AusAID. The case studies represent the situation at the time of writing in 2007.

In conclusion, this report seeks to enhance understanding and dialogue on capacity development and its potential for contributing to poverty reduction and improvements in the quality of life of all Pacific islanders. I trust that you will find it both thought-provoking and practically helpful in advancing our collective commitment to development in the Pacific.

Sultan Hafeez Rahman
Director General
Pacific Department
The Pacific Choice
Papua New Guinea Facts

Population: 5.7 million (estimated)
Political status: Constitutional parliamentary democracy.
Papua New Guinea has been fully independent since September 16, 1975 and became the 142nd member of the United Nations in October, 1975. It is also a member of the British Commonwealth.

Capital: Port Moresby
Location: The eastern half of the island of New Guinea, 160 kilometers north of Australia.
Languages: More than 800 distinct languages. Melanesian Pidgin and Hiri Motu are the two most widely used, but English is the official language in education, businesses, and government circles.

Real GDP growth rate (2006)
Life expectancy: 55 years
Adult literacy: 57%

Sources: Government of Papua New Guinea website, PNG Tourism Promotion Authority, Papua New Guinea Business and Street Directory, United States Department of State.
With a population of around 5.7 million, Papua New Guinea (PNG) is the largest Pacific island country, both in land area and population size. It is difficult to generalize about the people and culture of PNG because 800 languages are spoken and traditions and customs vary greatly across the country. The people traditionally lived in small, self-regulating communities, and before colonization in the late 19th century were not aligned with or subject to any overarching system of laws and governance. Although these communities sometimes interacted for the purposes of trade, intermarriage, or warfare, they remained largely isolated from each other.

Since its independence from Australia in 1975, PNG has emphasized building a shared sense of national identity among its people. However, the primary allegiance and identity of most Papua New Guineans remain defined by their local kin-based group and wantoks.\(^1\)

Most or 85% Papua New Guineans live in rural areas, subsisting on agriculture, forestry, and fishing. They have little access to the police or the formal justice system and are largely beyond the reach of government services, including education and health care. In fact, the largest service provider in PNG is not the state, but the Christian churches. The strain on overstretched, under-resourced government services has been made worse by rapid population growth, with the population almost tripling since independence.

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\(^1\) wantok literally means “one language” in Papua New Guinean pidgin, but more generally refers to the set of traditional customs and obligations associated with being a member of a social grouping.
According to the 2005 United Nations Development Programme’s human development index, Papua New Guinea ranked 137 out of 177 countries—the lowest rank of any Pacific island country. Other development statistics reinforce this rather bleak picture: life expectancy is 55 years and average adult literacy is 57%, with female adult literacy around 51%. Only 5% of those who left school in 2002 found employment in the formal sector.
Crime and lawlessness are perhaps the most highly publicized problems facing Papua New Guinea (PNG). They have earned the country a reputation for being unsafe for both travel and investment. Although reliable crime statistics are not available, there is little doubt that PNG faces an epidemic of serious violent crime including robbery, murder, gang rape, home invasion, armed highway robbery, election-related violence, violence relating to resource development projects, and tribal fighting. Fraud, corruption, and white collar crimes are also prevalent and undermine the ability of state institutions to address the country’s violent crime problem.

The causes of crime are complex, numerous, and much discussed. Alcohol, drugs, the introduction of a cash economy, and materialism have altered traditional ways of living and placed enormous strains on communities. This has weakened traditional mechanisms of social control and dispute resolution. Migration to urban centers, fueled by rural poverty, has further undermined social norms and people’s sense of mutual obligation, which previously guided and restrained behavior. At the same time, new tensions and divisions have been created by uneven development and distribution of resources. Crime and violence offer opportunities to secure income and resources in an environment where legitimate avenues for asserting rights or obtaining economic advancement are largely unavailable. Many communities are faced with discrimination and violence, while the protections that at least sometimes accompanied those customs have eroded. The formal justice system promises equality, protection, and redress, but in practice it remains remote, inaccessible, and ineffective for most citizens.

PNG’s government agencies have not been very effective in engaging civil society because of financial, staffing, and other constraints. However, the government has come to realize that law and order problems cannot be addressed solely through the formal system.
The first step in PNG’s current round of sector reforms was the 2001 National Law and Justice Policy. The approach under this policy clearly recognized the contribution of informal agencies and the importance of integrating the efforts of all sector agencies and community-based organizations. In that spirit, it emphasized better coordination among formal agencies and the informal sector as one way of addressing PNG’s serious law and order situation.

As Tanya McQueen noted in a paper on PNG’s Community Justice Liaison Unit (CJLU), the new policy promoted

...a crime prevention and restorative justice approach whilst simultaneously recognising the need to keep institutions such as the police and the courts functioning in a way that is effective and supportive of the rule of law. The foundations of the Policy are recognition of existing cultural practice in PNG and the role of the informal sector. By promoting the appropriate use of restorative justice approaches such as customary dispute resolution it is possible to not only complement the work of the formal sector but also to relieve some of the demands on those institutions such as the courts.[2]

In early 2003, the government established the National Coordinating Mechanism (NCM) to coordinate its sector programs, supported by the Law and Justice Sector Working Group. Later that year, the NCM identified 10 sector priorities that became the starting point for implementing sector reforms.

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Overview of the Program

In 2003, the Papua New Guinea (PNG) government, in partnership with the Australian government, established the Law and Justice Sector Program (LJSP). LJSP represents a sector-wide approach (SWAp) to law and justice reforms and is the key mechanism for providing financial and technical support from Australia. Support provided under the SWAp includes building the capacity of formal law and justice agencies in planning, finance, human resources, and other corporate functions. Consistent with the sector policy, it also promotes the work of informal sector agencies in areas such as customary dispute resolution while simultaneously strengthening linkages between the formal and traditional sectors.

LJSP collaborates with various agencies including the National Coordinating Mechanism (NCM), the sector working group, and several technical working groups to agree on annual program plans and initiatives, establish monitoring systems, and select advisers.

One of LJSP’s expected results addresses the issue of community involvement directly. It encourages promoting the informal system as an alternative to the formal system in appropriate circumstances and fostering partnership between government agencies and civil society.

The Community Justice Liaison Unit: What is It?

The Community Justice Liaison Unit (CJLU) is the mechanism through which LJSP helps civil society link with formal law and justice agencies. It promotes engagement of civil society
organizations with a focus on crime prevention, restorative justice, and partnerships for change. CJLU helps government agencies build capacity to work with civil society at the national and provincial levels, while advocating to ensure that government agencies involve communities in their planning processes and core business. The unit also funds general community law and justice interventions in the following areas:

- training, awareness raising, and advocacy;
- restorative justice initiatives and research;
- women, youth, and other vulnerable groups;
- partnerships for change and personal and community development; and
- appraisal, design, monitoring, and evaluation of interventions.

CJLU’s vision is to become an “accepted and trusted facilitator of civil society engagement with the law and justice sector.” Its strategy is based on principles of sustainability with emphasis on a social capacity approach. This means nurturing local systems of restorative justice and crime prevention, and building peaceful and safe communities through greater awareness of law and justice, education, and community development.

Consistent with its purpose and its focus on law and justice, CJLU supports activities that advocate, network, train, advise, and/or implement initiatives in

- good governance;
- social equity, including gender and HIV/AIDS;
- community development; and
- peace and reconciliation.

The CJLU is in the same building as the Department of Community Development. The underlying reason for this is the project’s involvement with nongovernment organizations (NGOs), community-based organizations, and churches, which come under the department’s mandate.

3 The term “social capacity” has been used in different contexts, including environmental management, and refers to “the community’s ability to utilise their human and social resources (capital) to scope and define their collective issues, undertake collaborative action and manage change.” See NAP Social Capacity Building Strategy – A Work in Progress, Version 3.2, 11 October 2002, p.1 (describes the approach taken in the Victorian National Action Plan for Salinity and Water Quality).
The unit is staffed by a national coordinator with seven support staff. Advisers and specialists are occasionally recruited to provide assistance and guidance to the national coordinator in specific areas, such as restorative justice and paralegal skills. Since its establishment, CJLU has worked to strengthen NGO capacities in the Southern Highlands, Eastern Highlands, Simbu, and Central provinces; the Autonomous Region of Bougainville; and National Capital District.

CJLU acts as a catalyst proactively encouraging community participation through engagement with the four main government agencies: the Department of Justice and Attorney General (DJAG), Correctional Institutional Services, Royal Papua New Guinea Constabulary, and Ombudsman Commission.

The Office of the Public Solicitor of DJAG has been working also with CJLU to provide technical assistance in establishing paralegal services in the communities.
ACTIVITY AREAS AND ACHIEVEMENTS

Training, Awareness Raising, and Advocacy

 Participatory paralegal workshops and other forums sponsored by Community Justice Liaison Unit (CJLU) have promoted awareness of legal issues and networking among nongovernment organizations (NGOs). Workshop participants have received training on basic rights and practical legal approaches in pursuing civil cases through family and civil courts. These forums have also given stakeholders an opportunity to identify their strengths and weaknesses, initiate dialogue among relevant actors, and strengthen networking. Legal knowledge and skills have also been enhanced through use of the media (radio and newspapers), public education, and other mechanisms, such as dramatization.

CJLU has supported small community-based organizations (CBOs): the Wabag District Informal Youth (Enga Province) to conduct law and order awareness programs, and the Arawa Women’s Training Centre in Bougainville to carry out law and justice awareness and skills training.

An indicator of success is that many communities in Papua New Guinea (PNG) are now more aware of law and justice issues. Many feel that there is general regard for safety and security and that they are able to go about their daily activities. As a local trade store owner in Port Moresby said, “We are not saying that there are no criminals in the community but the program is doing something positive in this community.”

Other NGOs support the work. For instance, Lady Ilan Los of the Individual Community Rights Advocacy Forum (ICRAF) said:
“...CJLU has played a catalyst role to link up NGOs/CBOs and the wider community to build capacity of individuals and groups to be aware of law and justice issues in their communities...”

With support from CJLU, several NGOs have advocated for basic constitutional rights in local communities. Some of these NGOs represent disadvantaged groups, such as women and children, in the courts. The Salvation Army, for example, trains and provides “court volunteers” to assist people who otherwise would not have access to the court system.

Rhoda Belden of Peace Foundation Melanesia (PFM), a CJLU partner NGO, facilitated a 2-week course funded by CJLU for field officers and unemployed youths. She pointed out one benefit of such training: “After the training, these field officers will target the leadership in their communities in ensuring awareness on peaceful and harmonious living.”

Youths engaged in raising awareness through a CJLU project.

Restorative Justice Initiatives and Research

In the Eastern Highlands Province and in the Autonomous Region of Bougainville, CJLU and PFM have conducted mediation training based on traditional restorative justice principles. CJLU also sponsored a 3-day workshop for PFM to review the process for law and justice needs analysis at the community level. Experiences from Southern Highlands, Eastern Highlands, Simbu,
Bougainville, and the National Capital District were shared to help develop capacity of trainers in these provinces. This improved the work of PFM and provided insights into conflict resolution and peace-building techniques in communities.

In Bougainville, CJLU engaged the council of elders in paralegal and restorative justice training to ensure it took traditional practices into account. This initiative also helped relieve some demands on the court system, consistent with the National Law and Justice Policy. In addition, CJLU recently hosted a 3-day forum on the subject with law and justice NGOs in Bougainville.

**Women, Youth, and Other Vulnerable Groups**

CJLU has had some notable achievements in supporting paralegal services that assist disadvantaged groups, such as women and children, through counseling, mediation, and other forms of nonjudicial representation. These services include providing legally correct forms for summons, affidavits, and statutory declarations, and helping people fill them out correctly.

Rose Bosimbi, a volunteer with the Community Justice Centre in Bulolo, observed: “As a nurse, I have provided curative services to victims and perpetrators alike. At times I would see them suffer. This prompted me to take preventive measures by doing awareness raising and counseling. With the courses given by CJLU through its network partner, ICRAF, I am able to do mediation, counseling, and awareness in the community. I do most of my counseling at the hospital where victims come for treatment.”

According to Mrs. Bosimbi and other trainees, the basic legal skills program sponsored by CJLU has given individuals and NGO partners the capacity to provide advice and counseling in their communities. This is important because lawyers and others (such as counselors) concentrate their efforts on formal justice in and around the urban areas.

The village court system was established in the early 1980s by the government, partly to off-load some responsibilities of the formal courts. Under the village court system is a village magistrate, a peace officer, and a village constable, all elected by the villagers. CLUJ supports village courts and peace-and-good-order committees. By working with the Village Court...
Secretariat\(^4\) of the Department of Justice and Attorney General (DJAG), the village magistrates are recognized as court officials, which increases their confidence. Their mediation skills are also developed through training and this promotes peace in their communities.

**Partnerships for Change and Personal and Community Development**

Through the work of the CJLU and the larger Law and Justice Support Program, many communities and local and provincial governments have set up law and justice agencies. These include the Bulolo Community Justice Centre, paralegal services in many provinces, community policing, and village courts.

In the urban settlements around Port Moresby, the nation’s capital, CJLU has also supported participatory appraisal processes so that communities can collectively identify their own law and order concerns. The National Capital District Commission (NCDC) requested that CJLU conduct a workshop on “self-reflection” for their management team to review service delivery approaches as a strategy to prevent crime in the city. One result of this was the establishment of “city ranger” youths from communities and settlements who police public places promoting anti-litter laws and general cleanliness of the city. A song composed about ”keeping Port Moresby clean” has become quite a hit with city residents, and youth have composed yet another song that discourages violence against women. In conjunction with the informal sector, CJLU holds an annual event—the “informal sector expo”—to promote vocational training, income-generating activities, and general awareness on law and justice issues.

By engaging youths in the settlements in and around Port Moresby, there has been progress in dealing with the illegal sale of betel nut and other food items and with general cleanliness in public places. This change in attitudes has, in turn, allowed law enforcement to work more closely with communities through their community policing program.

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4 The Village Court Secretariat is also supported by the Law and Justice Support Program to provide training to village court magistrates.
Contestable Funding

CJLU supports various partner NGOs and CBOs through a contestable funding mechanism. This vital component funds partner organizations to bring awareness and training programs in restorative justice and crime prevention into the communities. The scheme also allows NGOs, CBOs, and church groups to provide capacity building and community development support to communities throughout the country. In addition, groups may apply for funding for income-generating activities as a deterrent to crime in their communities. Specific criteria for funding approval, monitoring, and evaluation have been developed and are being employed by the CJLU advisory board.

By providing NGOs and CBOs with small grants and technical assistance, CJLU aims to strengthen the skills of community members to identify and solve their own problems and to strengthen community cohesion. The amount awarded depends on the group’s track record, its capacity development needs, and its ability to manage funds. Projects are expected to be a blend of capacity building and community development activities. Projects in 2005 included training programs, family support centers, radio programs, and workshops.
A monitoring and evaluation (M&E) framework for Community Justice Liaison Unit (CJLU) was developed in 2006. Its purpose is to collect qualitative, gender-disaggregated data to monitor performance and evaluate impacts, positive or negative, on the sector. Methodologies used vary by situation, but include participatory approaches to identify relevant concerns and appropriate remedies.

All stakeholders, including nongovernment organizations (NGOs) and local communities, are to jointly undertake M&E. The primary purpose is to learn from experience and improve on programming results. At a series of forums on the development of the M&E framework, community representatives discussed performance indicators. These are to be used to measure performance of informal agencies and the formal sector and, in turn, to inform planning and policy dialogue processes.

Representatives at the M&E forums said they wished to develop mechanisms to report on achievements, lessons learned, and opportunities for improvement. During the delivery of its program, CJLU will have opportunities to share such information with key stakeholders. Through its M&E activities and research, CJLU plans to take advantage of these opportunities, ensuring it has the appropriate information and evidence to discuss. A key consideration is to determine the types of forums where this will occur and the information to be shared.
Inmates and participants at a rehabilitation workshop.
SUCCESS FACTORS

Strengthening Informal Systems

The extensive informal systems operating throughout Papua New Guinea (PNG) already contribute significantly to the prevention and resolution of disputes in the country. These systems are overseen by dedicated community leaders in PNG’s settlements and villages. In fact, if most minor disputes were not settled informally in communities by traditional means, the demands on the formal sector would be even more onerous than they currently are.

Unfortunately, most of these “success stories” are not known to urban-based policy makers and the national media. Rendering them visible and learning the secrets of their success are vital to building a more sustainable and effective law and justice system. Research conducted by the Community Justice Liaison Unit (CJLU) is intended to contribute to this learning while also informing government policy and strengthening practices of sector actors.

PNG communities were engaged in self-policing and dispute resolution for thousands of years before the arrival of formal state structures. Empowering them to take some of that responsibility back—within the bounds of the rule of law—is a significant step forward. CJLU is supporting moves in this direction by providing enhanced and more effective capacity development outreach to grassroots communities, and by partnering with nongovernment organizations (NGOs) that already have well-established networks and outreach programs. CJLU activities are based on the principle that community determination and involvement (ownership) in its own processes will deliver sustainable benefits.
Formal and Informal Actors: Bridging the Gap

As noted previously, the PNG government has realized that law and order problems cannot be addressed solely through the formal systems and sectors. It is, therefore, working to better integrate the efforts of all law and justice agencies—formal and informal—and community groups. This need was reinforced by Sinclair Dineen in a recent review of CJLU in which he noted:

> Since the seminal Clifford Report on Law and Order in 1984, there has been growing recognition that one reason behind the limited effectiveness of formal law enforcement and justice processes in PNG is the large gap separating them from local communities. The CJLU represents a modest step towards bridging what the Clifford report called the “state–society gap” in the field of law and justice... (by) working to nurture partnerships between NGOs (and community-based organizations) and the formal agencies.\(^5\)

As noted, earlier attempts at sector reform fell short, at least partly because they failed to address this issue adequately. Part of CJLU’s success to date can be explained by its ability to bridge that gap and act as a catalyst for partnerships between formal law and justice agencies and civil society. For CJLU, continuing to bridge the gap is a necessary part of achieving sustainable improvements in the sector.

Empowering Civil Society to Work with Government

As McQueen noted, “An important role of the CJLU is to work with the formal agencies to effect a change in attitude in the way they interact with and consider the community in their work.”\(^6\) CJLU has done this in various ways. One way has been to facilitate civil society participation in development of the Sector Strategic Framework (SSF), which provides a structure

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6 McQueen, Tanya. Undated. Facilitating Civil Society Participation in Program Based Approaches—Law and Justice Sector Program in Papua New Guinea, p 8.
for medium- and long-term planning efforts. According to McQueen, CJLU identified community representatives to participate in SSF drafting groups. A practical result of their participation was the incorporation of strategies that strengthen civil society’s participation in planning and policy development and in building service delivery capacity.

Bringing civil society actors into the policy development process in this manner was a first in the PNG context and it solidified their role as important sector stakeholders. This was followed by community representatives’ participation in developing the SSF performance monitoring framework; civil society’s involvement in collection of performance data; creation of a focal group on the law and justice sector; and identification of community initiatives involving civil society organizations (CSOs).

CJLU, in close partnership with civil society, has also been positioned to work across law and justice agencies including the community police, Department of Justice and Attorney General, Magisterial Services, provincial administration in target provinces, Autonomous Bougainville Administration, National Capital District, and Ombudsman Commission.

Strengthening civil society stakeholders is clearly not intended to undermine or be at the expense of the formal agencies, which themselves need to be strengthened and reformed. However, experience within the sector suggests a need for critical thinking about how and which sector organizations and institutions can best meet the needs of the communities they are supposed to serve. This requires, among other things, more time listening to the people and a clearer recognition that depending on the formal sector to deal with all of today’s problems is no longer a viable option, if indeed it ever was. Families, communities, traditional mechanisms, churches, NGOs, the private sector, and others have important parts to play in policing, dispute resolution, crime prevention, and rehabilitation. The difficult, but by no means impossible, task is to devise appropriate means to ensure that the formal and informal systems can work together as part of the same overall system. CJLU has begun that process.
Engaging at the Subnational Level

Meaningfully engaging the provinces has been difficult because they are still coming to terms with the law and justice reforms. Coupled with lack of budgetary support, capacity, and mechanisms, some provinces have seen the breakdown of services and processes. Nevertheless, progress is being made through the sectoral approach, and many provincial and local governments are setting up entities to support the reforms. Such local ownership and participation are considered key to the sustainability of the reforms. As Valentine Kambori, chair of the National Coordinating Mechanism (NCM), said:

We have to bring our activities to the provinces. There need to be stakeholders addressing law and justice issues. The NCM, which is made up of the heads of the law and justice agencies, was in Goroka listening to stakeholders in the sector as well to meet with NGOs, community-based organizations (CBOs), community groups, and the public.

In the Central, Eastern Highlands, and East New Britain provinces, the Australian Agency for International Development is funding the Sub-National Strategy, along with the government’s Provincial Performance Improvement Initiative. These initiatives have good linkages with other government programs and are a positive response to institutional and policy challenges affecting performance at the provincial and district levels, including the Organic Law on Provincial and Local Level Government. CJLU has seized the opportunity to work with these initiatives at the local government and ward levels to engage local communities on sector issues.

For example, CJLU has embarked on a program to strengthen service delivery at the district and ward levels in Central Province through basic legal skills training for community development officers and ward councilors. One trainee, Lilian Ugava from the Abau District (Central Province), said: “The training has provided insights into how best we can also assist clients at the district and ward levels. It also empowers us as community development officers to be proactive in our roles and responsibilities.” The Civil Registry officer at Abau District added: “While working for Civil Registry I can also assist women at the district level in terms of basic legal information.”
Embracing Papua New Guinean Ways

This case underlines the importance of working through PNG systems (an important aspect of ownership). CJLU has done this by building linkages with and supporting the informal systems of justice, and recognizing the particularities of PNG’s social and cultural context for law and justice. Through these efforts, CJLU has increased prospects that the justice system will be responsive to community needs, including improved delivery of legal, judicial, and law enforcement services.

The philosophical basis for the change in approach witnessed under the Law and Justice Sector Program (LJSP) and CJLU is partly about recognizing the limitations of continuing to rely on a system established during colonial times. The system needs to be adapted to today’s environment and the challenges facing PNG. It is also about accepting that long-term structural change must supplement pragmatic short-term measures. The ultimate goal is to develop sustainable and socially appropriate responses that address the underlying causes of conflict. These responses must involve all the major stakeholders as active participants in maintaining peace and good order, and recognize the importance of pursuing both prevention and cure.

The approach to restorative justice is an interesting “case within a case.” Restorative justice has been the driving force behind significant reforms in many parts of the world. Ironically, this movement draws its inspiration from the methods of traditional, small-scale societies. While relatively few such societies survive in the industrialized nations, they continue to provide the social foundations in most Melanesian countries. In this respect, PNG has a distinct advantage in the restorative stakes. Restorative justice is not a new idea in PNG and it resonates with many aspects of village life. The nation’s traditions and customs provide a rich foundation for developing a home-grown system of restorative justice best able to meet the changing needs of the people. Many new initiatives being followed by different agencies in the sector are already based on restorative thinking.

Restorative justice offers an opportunity to develop more socially appropriate resolutions to many current problems of order. As such, it is an important part of the rationale for reforming the present system. The idea of identifying a particular community’s security needs and then providing for them extends far beyond community policing. It entails learning from the traditional view that sees crime more as an injury to the offender than to the government or the state. A restorative approach involves the
victim, the offender, and the entire community in its criminal justice processes. It views community building as the most appropriate response to crime and conflict.

The intervention of the justice system should thus be seen as an opportunity to repair the damage caused by conflict. The role of the law and justice sector is to help the community develop its capacity for self-policing, crime prevention, and conflict resolution. By promoting itself as a resource to the wider community, the sector moves beyond an exclusive focus on control and regulation, becoming an important agency of development and growth as well.

Whereas the law and justice sector is often viewed as being essentially about policing, courts, prisons, and imposed controls, the restorative approach provides it with a more positive and constructive role in the overall development of the nation. Where restorative justice differs most clearly from conventional retributive justice is in its view of crime as being more than simple law breaking or violation of government authority. The most important thing about criminal activity is the injury it causes to particular victims, communities, and the offenders themselves. Restorative justice addresses itself to these injuries and to all the injured parties. The focus of proceedings is no longer solely on the offender and the state is no longer the only party to address the problem.
Capacity Development Strategies

CJLU has relied on a number of capacity development strategies to deliver on its mandate. These have included:

- training individuals and raising awareness of communities (e.g., workshops and media campaigns);
- building organizational capacity of civil society groups (e.g., organizational mentoring);
- empowering communities to engage in policy dialogue (e.g., supporting civil society involvement in the development of the SSF);
- strengthening civil society capacity for service delivery (e.g., paralegal services, mediation, working with women’s groups, and community development and income generation) through technical assistance and use of the contestable mechanism to fund and promote new or improved practices;
- bringing formal and informal systems together, in the process building on PNG traditions and ensuring more effective use of existing capacity to address law and order concerns in the country; and
- strengthening PNG mechanisms for civil society participation (e.g., NGO forums and CJLU itself), which have enhanced civil society’s sense of ownership over sector reform processes through policy engagement and service delivery initiatives.

As the list above suggests, the approach to capacity development has not limited itself to targeting individuals or single NGOs and CBOs, but has emphasized an integrated approach, taking into account broader systems, sets of actors, and the sector as a whole. Interventions have also sought to change attitudes and behavior—important societal capacities—through public awareness campaigns and by giving voice to community groups that are rarely heard in public forums.
LOOKING FORWARD: OPPORTUNITIES AND CHALLENGES

The Sector-Wide Approach—Making it Work

The law and justice sector-wide approach (SWAp) in Papua New Guinea (PNG), unlike previous approaches to sector reforms, has focused not only on specific formal agencies but also on coordination between agencies and actors in the sector. It has encouraged a more holistic approach, as described in the section on capacity development strategies.

A challenge faced in many SWAp's is adequately engaging civil society. On that count, Community Justice Liaison Unit (CJLU) and the broader Law and Justice Sector Program (LJSP) of which it is a part have fared well because they have bridged government and state actors in a way that previous reforms have not. Bringing actors together in this way has reinforced a sense of shared ownership among diverse stakeholders. This sense of ownership can also be attributed to acknowledgment by CJLU and LJSP of the importance of the social and cultural context of law and justice issues in PNG.

However, full implementation of the SWAp also requires that appropriate mechanisms are established at the provincial and local levels. To be effective, coordination must have an effect both horizontally, across the agencies, and vertically, through the various levels of government (national, provincial, and local). Eventually, sector resources need to be considered as a whole, with key strategies that recognize the interconnections and dependencies.
Adapting to Current Realities

Systematic engagement of civil society. Nongovernment organizations (NGOs) and community-based organizations (CBOs) have engaged extensively in capacity development, but issues like policy engagement, sector-wide reforms, institutional strengthening, and strategy development do not appear to be part of CBO or NGO plans. A challenge, therefore, will be to engage NGOs and CBOs more systematically in capacity development activities, taking into account the challenges and the benefits of shared understanding and common strategies. Such a focus might create opportunities for strategic strengthening of capacities that some NGOs and CBOs currently do not regard as priorities and, hence, do not actively seek to address.

Sustainability. CJLU is currently housed in the Department of Community Development with no budgetary support from that department. Two departments, the Department of Justice and Attorney General (DJAG) and the Department of Community Development, must integrate the CJLU into their budget plans for it to continue to function when donor support ends in 2008. It is not clear whether the CJLU is intended to evolve into a new institution (e.g., as a government or quasi-government body), or if it is seen as a transitional body whose role is to build the capacity of civil society for a limited time. Those two possibilities require two quite different strategies for capacity development, and it is not apparent which one (if either) has driven thinking and programming decisions. If the strategy is to phase out CJLU, an exit strategy is needed. What is clear is that continued exclusive reliance on donor assistance will be detrimental to the positive outcomes that are emerging from this intervention.

Scaling up. In developing the capacity of groups and individuals, there will be increased use of restorative justice, mediation, and informal approaches in the communities and by the wider network of NGO partners. The challenge for CJLU and the LJSP is to put together a national program for replication throughout PNG. Because of the cultural diversity of the country, adaptation of processes and procedures must be fully documented as part of the lessons learned through monitoring and evaluation mechanisms.
CONCLUSION

The rationale behind the second pillar of Papua New Guinea’s (PNG) national policy is that law and justice agencies should operate as integral parts of an overall system of justice. There are high levels of operational interdependence between the different components. Weaknesses in one agency will almost invariably affect the operation of others and, by extension, the working of the system as a whole. For example, if there are lengthy delays in court hearings, correctional institutions are likely to bear the burden of increased numbers of detainees awaiting trial or the police may lose track of alleged offenders released on bail. Such a situation raises obvious human rights issues. This interdependence also extends to the provision of law and justice facilities and support services.

Coordination is needed at all levels of government if performance is to improve. The government has made the National Coordination Mechanism (NCM), supported by a secretariat, responsible for ensuring that this coordination happens and results in improved performance within agencies and across the sector.

Through the Community Justice Liaison Unit (CJLU) and the broader law and justice sector-wide approach (SWAp), efforts have been made to ensure that PNG communities assume a more active role in sector concerns. The community is viewed as the ultimate client of justice services and a genuine partner in the legal and judicial processes. The state, of course, retains its important role of safeguarding the interests of social and distributive justice through the administration of the law.

In essence, CJLU aims to create opportunities for nongovernment organizations, civil society organizations (CSOs), and the wider civil society to collectively reflect, analyze, and learn about development and governance issues in the law and justice sector. CJLU is intended to be proactive. Capacity development activities funded through it have included workshops, meetings, and exchanges. Expertise has been and will continue to be drawn
from the Law and Justice Program (LJSP), CSOs, and national and international experts. In the future, it could also provide forums for CSOs and government to come together on common law and justice issues. Overall, activities should challenge thinking and build common understanding of issues surrounding the strengthening of civil society in PNG.

One role for the CJLU has been to strengthen the ability of these organizations to understand and address the conditions that promote or hamper development in crime prevention. Contributing to knowledge of what works and what does not work in regard to capacity development in this sector is an essential part of the CJLU response; mechanisms are in place to collect and share information through its monitoring and evaluation processes.

While each level of government has an important ongoing role, government alone cannot tackle all the problems. It is not just a question of lack of resources. History tells us that lasting peace is rarely built from above. Communities must also accept responsibility and play their part. A major objective of community policing, for example, should be to empower communities to police themselves. Police and local administrations can help facilitate this process, but ultimately it is about shifting responsibility and accountability back to the community.

Almost 25 years ago, the Clifford Report made a convincing case for promoting the role of non-state mechanisms in maintaining order and redressing conflict. It saw the main role of the state as facilitating and supporting the workings of these informal mechanisms: the state is not to go first but to go last, reducing to a minimum its direct role in law and order. The state’s resources are to be used where informal resources are inadequate and in areas where the formal system is best suited to help. CJLU has helped address this issue in the PNG context and has begun to restore a balance that best reflects Papua New Guinean ways and needs.

Bridging the State–Society Gap

The Community Justice Liaison Unit was established under Papua New Guinea’s law and justice sector program, with the support of the Australian government, to enhance the capacity of PNG’s civil society and facilitate its involvement in policy development and delivery of services in the justice sector. The case study highlights those efforts in a context characterized by broad-based ownership of sector reforms and shared interests among civil society and government actors. In addition, it underscores the role external actors can play in supporting traditional institutions—such as PNG approaches to mediation and restorative justice—while encouraging links between the formal and informal aspects of the justice system.

This subseries is published by the Asian Development Bank (ADB) to provide the governments of its Pacific developing member countries (PDMCs) with analyses and insights on key issues and lessons learned with respect to capacity development. Cases studied highlight a range of experiences throughout the region by sector, theme, and source of external support, revealing approaches to capacity development that work best and the conditions that have been conducive to their success. They also explore the unique challenges faced by PDMCs in addressing capacity constraints as well as some opportunities facing governments and the people in the Pacific islands. Among other things, the case studies underline the importance of PDMC leadership, engagement of local partners, strategic attention to long-term capacity issues, and effective use of external resources. We hope that the findings in these reports will help guide future capacity building efforts in the Pacific.

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