

State, Society & Governance in Melanesia Project

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“Policy-Making and Legislating for Reform in Melanesia: why is it so difficult?
Cases from Papua New Guinea and Vanuatu”.

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All Pacific Island countries have embraced policy and management reform - both in rhetoric and practice – as the central strategy for enhancing economic development and effective governance. Donor support and encouragement for this strategy over the past decade has been substantial. Yet reforms have proven difficult to implement in most countries and only partial success can be claimed. Why is reform so elusive? In the course of two recent consultancies undertaken for the FAO in Papua New Guinea and Vanuatu, Dr Jim Fingleton observed a wide range of obstacles and difficulties, structural and behavioural, that have inhibited the progress of reform. Impediments encountered included:

- o absence of a political mandate for change and reform*
- o political and bureaucratic inertia, obstruction and “interference”*
- o lack of coordination and continuity in bureaucratic processes*
- o disconnections between the public and private sectors*
- o stakeholder dissonance*
- o unrealistic expectations of consultants and donor interventions, and*
- o inappropriate donor programs and timeframes.*

While many of these obstacles are common throughout the Pacific region (indeed throughout the developing world), others are specific to individual countries. Dr Fingleton’s identification of these constraints within their national contexts assists our understanding of the inherent difficulties of the reform process. In addition, his close analysis of experience on these projects demonstrates some pointed lessons for domestic reformers, donors and consultants alike. One such lesson, he argues, is that aid projects and consultants cannot be used as a substitute for government policymaking - if reforms are to endure and responsible government is to have any meaning. A second is that, in the absence of functioning political parties and other mechanisms linking the populace to policy, the legitimacy of reform policy can be enhanced best by a wide consultative process. But even that is no guarantee of successful policy implementation: powerful vested interests may still override popularly-endorsed programs.

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I. INTRODUCTION

II.

In 1999, the Food and Agriculture Organization of the United Nations (FAO) received the following requests from two Pacific Islands countries for technical assistance –

- from the Government of Papua New Guinea (PNG), to reform the legal and institutional arrangements for management of the agriculture sector
- from the Government of Vanuatu, to rewrite the forestry legislation to enable implementation of a new national forest policy.

I was engaged by FAO to lead a small team of consultants to carry out the two projects. The purpose of this paper is to outline my experience in conducting these two consultancies during 1999-2000, and discuss the implications for present-day law- and policy-making in the Pacific Islands. I will first describe the background of the consultancy in each country, its conduct and the results achieved. Then I will mention the problems faced in doing the two consultancies, and conclude with my views on the lessons to be learned from the experience.

I was nominated by FAO and accepted by the two Governments to undertake these consultancies on the basis of my relevant experience in the two countries concerned. I have worked as an adviser to government in PNG for nearly 30 years, during the 1970s as adviser on land policy and legislation to the National Government over the independence transition period (1973-78), and since then as a consultant to the National and Provincial Governments on a range of land, forestry and environmental projects. I also advised the Vanuatu Government on land legislation during its transition to independence (1980-81), and returned in 1997 to take part in a study of the country's potential for private forestry.

II. PAPUA NEW GUINEA

Background to the consultancy on the Department of Agriculture and Livestock

Before 1980, the Department of Agriculture and Livestock (DAL) had primary responsibility right across the agriculture sector - in policy formulation, research, extension services, training and agricultural education. From about 1980 the Department's role was progressively reduced by two main factors - decentralisation and corporatisation.

Devolution of Agricultural Functions to Provinces

The devolution of agricultural functions to provincial level began with the first *Organic Law on Provincial Government* in 1977, and further devolution (in particular, in planning and funding powers) to district and community levels was in train at the time of the

consultancy, under the recent *Organic Law on Provincial Governments and Local-level Governments* of 1995. New structures were introduced for policy- and law-making, administration and public funding. Each of the 20 provinces has a Joint Provincial Planning and Budget Priorities Committee, with a corresponding body for each of the 83 districts. A major shift was made to the direct funding of services at district and local levels, with local Members of the National Parliament having an important say over planning and expenditure. It is a very ambitious model for decentralisation, and work was still being done on sorting out its implementation at the time of the consultancy.

Corporatisation “reforms”

The other major reform in management of the agriculture sector over recent years has been the transfer of responsibility for provision of support services in agriculture from government bodies - especially DAL but also from Provincial Divisions of Primary Industry (DPIs) - to industry organisations. A basic thrust of this reform was to create organisations controlled by, accountable to, and financed largely by the industries themselves, with a view to establishing a work ethos for enhanced efficiency and service orientation.

In some cases, the mandate and membership of commodity boards which had been established under earlier legislation was altered to give broader industry representation and introduce a private sector management approach (e.g. Copra Marketing Board, Cocoa Board). In other cases Government-owned companies were incorporated to run commercial operations (e.g. Livestock Development Corporation, Fresh Produce Development Company), while other corporations were either set up by Government or taken over to provide extension services, undertake research or carry out marketing functions for particular crops (e.g. Cocoa & Coconut Research Institute, Coffee Industry Corporation, Cocoa & Coconut Extension Agency).

Meanwhile, umbrella bodies were being formed by the private sector, such as the peak Rural Industries Council with its broad industry representation, the Growers' Association, the Smallholder Coffee Growers Associations in the coffee-growing provinces, the Palm Oil Producers Association, Poultry Growers Association and so on. Many of these farmer bodies have representation on the boards of the industry corporations already mentioned. A further stage in the corporatisation thrust was the establishment in 1996 of the National Agricultural Research Institute as a statutory organisation to carry out applied research, and in 1997 of the National Agriculture Quarantine and Inspection Authority to maintain plant and animal protection and carry out quality assurance.

These various bodies, with their different memberships and constituencies, had been set up under a range of different legal instruments, with different objects, functions and powers, decision-making structures, staffing arrangements and accountability requirements. Fairly common features, however, are:

- i. the governing bodies (boards, councils, etc) are usually made up of a combination

- ii. of senior Government officials and representatives of the industry concerned; the Minister for Agriculture and Livestock has some say in the appointment of some or all of the board members;
- iii. the boards are made responsible for overall executive control, but provision is made for staff to be appointed to carry out day-to-day administration;
- iv. the board members are subject to conflict-of-interest requirements, and are required to meet at regular intervals to carry out their functions;
- v. the Minister is sometimes given power to issue directions to the board, and to participate in planning, staff appointments, fixing of grower levies, etc;
- vi. the terms and conditions of appointment of board members and staff are sometimes subject to statutory control;
- vii. there is usually some control on how the funds of the organisation are raised and spent;
- viii. requirements are sometimes made for annual reports and auditing of accounts.

Serious Problems for DAL

As a result of decentralisation and corporatisation, by the end of the 1990s many of DAL's traditional functions had either been devolved to provincial or lower levels of government, or been transferred to the dozen or so industry organisations. At the start of the new century, the agriculture sector faced the following serious problems:

- i. DAL, the main government body, was marginalised and demoralised, resentful of its loss of power and often in conflict with the agencies carrying out its former functions;
- ii. the National Government had no effective vehicle for pursuing national priorities - e.g., in food security or export crop production;
- iii. funding for agriculture was poorly-targeted, inadequate and unreliable (a major problem for research, in particular);
- iv. weak capacity at provincial and local levels of government;
- v. poor accountability by many corporate bodies to their grower constituencies for expenditure of crop levies, etc.

A decline in agricultural production was evident, in export crops but also in subsistence crops, as the serious food shortages in the late 1990s grimly showed.

A number of aid agencies (World Bank, Asian Development Bank, AusAID, etc) made various reform proposals during the 1990s for restructuring DAL and strengthening the other institutions. Some aid agencies even began bypassing DAL and providing their support directly to bodies within the sector carrying out agricultural research and extension services. In 1999, the Government asked FAO to provide technical assistance to strengthen DAL's capacity to act as the lead agency in the agriculture sector, and improve the legal and institutional arrangements for management of the sector.

Methodology and Proposals for Reform

The FAO project team consisted of myself as Team Leader and Legal Expert, and Dr Adel Cortas, a retired FAO officer, as the Institutional Expert. A lawyer from FAO's Development Law Service in Rome, Dr Jessica Vapnek, joined the mission during its latter stages, and took part in the project workshop.

My Terms of Reference required me to advise the Government on the implications of all the agriculture-related legislation and the new decentralisation initiatives for management of the agriculture sector, and propose legislative reforms to improve arrangements for management of the sector. Dr Cortas was required to advise on the restructuring of DAL, and ways for improving delivery of services by the various industry bodies. We visited PNG twice - for a month in 1999 and again in 2000. We had a Steering Committee of senior DAL officials with whom we met weekly, and consultations were held with DAL and the other relevant bodies at the national level, four of PNG's nineteen Provincial Governments, more than a dozen of the main industry bodies, and the World Bank, UNDP, AusAID and New Zealand aid representatives.

After the first mission a Discussion Paper was prepared and distributed, setting out the issues as we saw them and our reform proposals. The main issues for DAL's future role, and management generally of the agriculture sector, were listed as follows:

- i. because many of DAL's traditional functions have either been devolved to provincial and lower levels of government, or have been transferred to corporations, what is DAL's role to be in the future?
- ii. how can capacity and resources be built up at district level, to support district and provincial planning?
- iii. how can adequate and reliable funding be provided to the bodies established to carry out essential agricultural functions (extension, research, marketing, quarantine, etc)?
- iv. how can these bodies be made suitably representative of their constituencies, and fully accountable to them for expenditure and performance?
- v. with management of the agriculture sector now much more fragmented, how can linkages be established and maintained among all the various parties within industry and government?

This Discussion Paper was distributed to the stakeholders, and was used as the basis for a major workshop held during the second mission. Representatives from Government, industry and the private sector were brought in from around the country to debate the reform proposals, and a fair degree of support was gained for them. In June 2000, FAO sent reports by Dr Cortas and myself to the Government of Papua New Guinea, with our

final recommendations for legal and administrative reform.

Major Proposals

The main concern of this paper is the process of reform rather than its actual content, but the following gives an outline of the main recommendations sent in our reports to the Government by FAO:

- i. the private sector should have the main say in management of agriculture;
- ii. DAL should be cut back heavily, and its role redefined to focus on strategic planning for the agriculture sector, coordination, and monitoring and evaluation;
- iii. planning must be done by DAL in a participatory manner, involving other national agencies, Provincial and Local-level Governments, key industry bodies and statutory corporations. For this purpose, a National Agriculture Council should be established, to provide leadership and guidance to proposed Provincial Agriculture Councils in their planning and budgeting;
- iv. the key agriculture industry bodies should have to comply with a legislated set of "good governance" principles covering such matters as appointments to their boards, the exercise of the Minister's powers, terms and conditions for staff, reporting and accountability requirements.

To implement these recommendations, a set of Drafting Instructions for the necessary new legislation was included with the final reports, as well as the details for a reconstructed DAL. The proposals were based on the mechanisms for planning at the different levels of government laid down by the *Organic Law*, and on the World Bank-inspired public sector reforms (in particular, reductions in the size of the public sector) put in train by the Morauta Government. Models used for the proposed approach were the arrangements for coordinated planning set out in the *Education Act* and *National Health Administration Act*, which provinces said they favoured. Despite these institutional underpinnings, and the support given to the reform proposals during our consultations, the proposals came unstuck. I will leave treatment of what happened next until after I have described the experience in conducting the second consultancy.

III. VANUATU

Background to the consultancy on the new Forestry Act

Shortly after independence, Vanuatu enacted the *Forestry Act* of 1982. The 1980s and 1990s were decades when a major increase in forest exploitation occurred in the larger

Pacific Islands states, assisted by poor long-term planning by post-independence governments for the forestry sector and deregulation of the forest industry. In countries like Papua New Guinea and Solomon Islands the forest resource was being exploited at an unsustainable rate, bad logging practices were ruining the environment, village society was being disrupted and the countries were missing out on precious forest revenue. Justice Tos Barnett, who ran a Commission of Inquiry into PNG's forestry industry in the late 1980s, summed up the results of logging in New Ireland Province in this famous quote:

"[T]he accessible timber resource has been **vandalised** to satisfy the financial thirst of foreign timber countries It would be fair to say, of some, that they are now roaming the countryside with the self-assurance of robber-barons; bribing politicians and leaders, creating social disharmony and ignoring laws and policy in order to gain access to, rip out, and export the last remnants of the province's valuable timber."

Vanuatu's Conservative Approach to Logging

Vanuatu was spared from the worst damage by its less attractive natural timber resource, a more conservative government approach to logging and - probably most important of all

- a legislated ban from 1993 on the export of unprocessed logs.

Vanuatu received development assistance for the forestry sector during the 1980s and 1990s from New Zealand, the European Union, and from AusAID - most notably in the form of the National Forest Inventory Project (1989-92) and the Sustainable Forest Utilization Project (1995-2000). One outcome from the latter was the Vanuatu Code of Logging Practice, adopted by legislation in 1998. In November 1998, after a UNDPfunded

project the Council of Ministers endorsed the National Forest Policy of Vanuatu - a comprehensive statement of national forest policy objectives and the strategies for their achievement. This lengthy document was prepared after a series of public policy workshops, held around the country in 1996 and 1997.

National Forest Policy of 1998

Among the main elements of the National Forest Policy are:

- i. the principal goal for the forestry sector is to be sustainable management, to achieve greater social, economic and environmental benefits for current and future generations;
- ii. the National Government is responsible for regulation of the forestry sector, but it

- iii. must consult Provincial Governments on relevant forestry matters; forests are to be classified as production, protection, conversion or uncommitted
- iv. forests, with suitable controls imposed on forest use for each class; the rights of customary owners to decide how their forest resource is to be managed are recognised;
- v. there must be better provision for the acquisition of timber rights, and joint ventures between logging companies and the customary owners should be encouraged;
- vi. a licence from the Government is required for all commercial forestry operations;
- vii. licences are to be based on sustainable yields for each island;
- viii. all licences must include provision for reforestation of logged areas;
- ix. the log export ban to be retained, with minimal exceptions;
- x. all forestry fees, penalties and charges must be paid into a Forestry Fund, for use on reforestation, administration, research, training and extension.

The *Forestry Act* of 1982 and its supporting Regulations were seen as needing replacement, so as to provide the necessary legislative backing for the new policy and strategies. In 1999, the Government asked FAO to provide technical assistance to draft the new forestry legislation.

Methodology and Major Proposals

The FAO project team consisted of myself as Team Leader and International Legal Consultant, Mr Aru Mathias from FAO's Sub-Regional Office in Western Samoa (a former Director of Forests in Vanuatu) and two local consultants. As with the PNG consultancy, a lawyer from FAO's Development Law Service in Rome, Dr Ali Mekouar, joined the mission during its latter stages, and took part in the project workshop. My Terms of Reference required me to review all the forestry-related laws and assess their adequacy for sustainable management of the country's forest resource, recommend amendments necessary to implement the National Forest Policy, and prepare draft legislation to give effect to those reforms.

I visited Vanuatu three times during 2000, and the project team held consultations with the Department of Forests and other relevant bodies at national, provincial and village levels. A high-level Steering Committee of Government officials was set up to give guidance to the project. After the first mission I prepared a report outlining the requirements and options for legislative reform to implement the recommendations of the National Forest Policy, and this was used as the basis for consultations during the second mission, after which I prepared a Discussion Draft of a new Forestry Act and Explanatory Notes. These were sent by FAO to the Government, and during the third mission a 2-day Training Workshop was held for Forestry officials, and then a 2-day National Seminar, attended by representatives from Government, industry, aid organizations and the private sector.

Main Aspects of the new Forestry Legislation

Once again, it is not the purpose of this paper to discuss the content of the reform proposals, which emerged from the consultancy in the form of a draft Forestry Act and Regulations. I am more concerned here with the process of legal reform, but the following are the main aspects of the proposed legislation sent by FAO to the Government:

- i. the general principles applying to forestry administration are set out;
- ii. a Forests Board is established, with the main task of supervising the negotiations with customary owners for timber rights agreements;
- iii. provision is made for a Forestry Sector Plan, to be prepared in a consultative manner. The Plan is the basic framework for the protection, development and sustainable management of all forests in Vanuatu, and forestry operations cannot be approved outside of the Plan's requirements;
- iv. the two main requirements for any commercial forestry operation are an agreement with the customary owners of the timber and a licence issued by the Director of Forests;
- v. the steps to be followed in negotiating a timber rights agreement with the customary owners are set out in detail;
- vi. provision is made for environment protection and reforestation;
- vii. export of forest produce is regulated.

A Forestry Bill to implement this draft legislation was approved for introduction to the Parliament of Vanuatu in August 2001 and was passed by Parliament in November.

Attention will now be turned to the problems faced in conducting the two consultancies, and what lessons can be learnt from the experience.

IV. PROBLEMS ENCOUNTERED

Papua New Guinea

Lack of Policy Approval

The basic problem in the PNG case arose from the fact that, although there was general agreement on the necessity for improving management of the agriculture sector, no policy approval for reform had been given. It had been left up to the FAO consultants to make their proposals for reform, and these had then to be brought into the country's decisionmaking process. The normal way for policy approval to be gained would be for the Department concerned to prepare a submission for presentation by its Minister to PNG's

National Executive Council, but major difficulties lay in the path of this process in this case.

In the first place, although the concerned Department - DAL - had put forward the original request to FAO for the project, it became clear to us that the only option they were interested in was to be "corporatised". In previous years, the two former Departments of Fisheries and Forests had been reconstituted as the National Fisheries and Forestry Authorities under their own legislation. These statutory bodies have considerable financial autonomy and freedom in setting staff terms and conditions, and it appeared that the DAL leadership wanted to reconstruct themselves along those lines. When it became apparent that the FAO team did not favour that option, seeing benefits in DAL remaining a Department of the National Government, we started to encounter hostility from DAL.

Resistance from various quarters

The second obstacle in the way of the normal policy-making process was that it proved impossible for the FAO team to meet the Minister for Agriculture and Livestock, to get his views on the direction he wished the reform of DAL to take. As it happened, for political reasons there were two replacements of Minister during the course of the consultancy, as the Prime Minister Sir Mekere Morauta tried to hold his shaky coalition together. It is probable, however, that our proposals for reducing the Minister's involvement in the affairs of the industry organisations (in appointments to boards, etc) would not have been welcomed by the Minister. Obviously, without the support of the Minister or the Department's leadership, our reform proposals were going to be in trouble.

At DAL's request, I prepared an Information Paper to inform the National Executive Council of the reform proposals, but it was not submitted to them (before I left PNG, at least).

During the consultancy, a number of steps were taken to position our proposals within the Government's public sector reform initiatives, and thereby make up for the lack of political support from the Minister and Department. We held consultations with the Minister for Planning and Implementation, and kept the Prime Minister's chief adviser on agricultural matters well briefed on our deliberations. Towards the end of the project we outlined our proposals to the World Bank representative for PNG, and the Central Agencies Coordinating Committee in the Prime Minister's Office which was responsible for the public sector reforms which the Bank was supporting. And we invoked the processes of the Consultative Implementation and Monitoring Council (CIMC) - a highlevel advisory body with mixed representation from the public and private sectors - to move the reform proposals forward.

Although we did not enjoy the backing of our client Minister or Department, our proposals initially enjoyed a fair degree of support from stakeholders in the agriculture

industry. This support, however, was not united. Some in the industry felt that DAL had long outlived its usefulness, and that it only used up scarce resources which could be better spent at the lower levels of government or by the specialised agricultural organisations. A few leaders in the private sector called for DAL to be abolished, but others were prepared to accept a Department which had its role confined to high-level strategic policy-making and coordination, along the lines the FAO team advocated. All industry people were in favour of drastic cut-backs in DAL's staff and funds, but it should be acknowledged that many of those working in the specialised organisations were "refugees" from DAL, who now competed with it for funds and other resources.

Upsetting established "practice"

When it came to our proposals for imposing a "good governance" regime on the numerous industry organisations, we encountered a more concerted opposition. Many years of Ministerial interference in the operations of the large cash crop commodity bodies had left a legacy of suspicion and distrust of the motives of politicians, which led to a "hands-off" mentality to any proposals for reform - even proposals which sought to protect the interests of the growers from political interference. Added to that was the fact that many board members owed their appointments to Ministerial patronage, and were not interested in reforms which placed the interests of the growers first. These were fertile grounds to breed opposition.

Before long our proposals were being misrepresented, with newspaper reports that FAO was proposing that the Government should take over control of all the commodity boards and growers' funds, and in particular that the coffee industry legislation should be repealed. In fact, we had proposed the opposite - that the boards and funds should be safeguarded from political interference, and that the coffee legislation (setting up the Coffee Industry Corporation) should be used as the "good governance" model for all the other bodies to follow. At a meeting with the CIMC in Mt Hagen, coffee growers staged a protest against the reforms, and threats were made to block the Highlands Highway. By August 2000, the Minister for Agriculture and Livestock (the third Minister in a year!) was assuring the public that the FAO's "controversial reforms" would not be implemented "without consulting all stakeholders in the industry".

In June 2001, three university students demonstrating against the Government's public sector reforms were shot by riot police in Port Moresby. In the face of rising unrest, the Government was obliged to back down on its public sector reform agenda for the time being. This left our proposals for reforming administration of the agriculture sector in limbo.

Vanuatu

In stark contrast to PNG, in the Vanuatu case there was no problem with lack of a political mandate. Not only was there clear Government approval for the preparation of

new forestry legislation, but the National Forest Policy which it would implement had been the subject of wide community consultation. The main problem we faced in Vanuatu came from an unexpected source of "political interference" – a new Prime Minister!

“Interference” and Vested Interests

There are, of course, bound to be problems when a Government is replaced mid-term, and this was the case in Vanuatu. The Government which had approved the National Forest Policy in 1998 was removed from office in a vote of no confidence, and a new coalition Government led by Mr Barak Sope was in office when we began the project at the beginning of 2000. This new Government had, however, signed the Project Document with FAO, based on the original proposals and Terms of Reference. Upon our commencement of the consultancy, it came as a surprise to find that the Prime Minister had authorised a private Australian legal firm and its local business connections to prepare legislation creating a special forestry regime for certain land in which they had an interest.

This development created a number of problems, in particular:

- i. there had been no process of consultation with stakeholders (e.g., the customary owners of the land concerned) before the law was drafted;
- ii. there had been no policy approval for the proposed law;
- iii. the Department of Forests and Attorney-General's Office had been required to respond to the draft law, and try to iron out problems of a legal and technical nature with it - thereby distracting them from the main task of reforming the forestry legislation;
- iv. the proposed law would set up a regime which would specifically override the general forestry and planning laws in Vanuatu, and impose additional demands on Government staff and funds to implement it;
- v. the law would pre-empt decisions on important forestry matters (e.g., forestry leases for timber production), which should have been handled under the comprehensive forestry law reform which we were about to undertake.

It was extraordinary that, after having just signed an agreement with FAO for the forestry law reform project, the Prime Minister should authorise private interests to draft their own

legislation on a major forestry matter. During conduct of the consultancy, we met the Prime Minister and the proponents of the special legislation, with a view to persuading them to drop the idea and allow us to deal with the matter under the general forestry law reform. The Government's legal advisers and the Department of Forests made their opposition to the special law very clear, and senior Government officials objected strongly to the lack of proper consultation, the clear conflict of interest involved in letting a private company construct its own legal regime, and the way the proposed law would

override general forestry, land, environmental and planning legislation. Despite all this opposition, however, the proposed law - the *Forestry Rights Registration and Timber Harvest Guarantee Act 2000* - was passed by the Council of Ministers, tabled in Parliament and enacted.

This kind of outside interference in the normal processes of government places great strains on the integrity of the system, and relationships between Ministers and public servants. In the result, we were required to consider the options of either repealing a law only passed a few months beforehand, or letting it stand as an anomaly within the general forestry system. In the end, the Government decided to let the anomalous law stand.

As it happens, the Sope-led Government itself was overthrown in a vote of no confidence in May 2001 by a coalition of parties led by Mr Edward Natapei, but the new Forestry Act was passed by Parliament despite these political ructions.

V. LESSONS LEARNED?

What lessons can be learned from the contrasting experiences of these two consultancies? In both cases, FAO was asked to field teams of consultants to carry out Terms of Reference agreed with the host Governments, and a common methodology was employed. It involved regular meetings with a high-level Steering Committee, widespread consultations with concerned bodies in the public and private sectors, preparation of discussion papers for local consideration between the team's visits to the country, and a major workshop at which stakeholders were brought together to debate the reform proposals. Based on all these inputs, final recommendations for reform were sent by FAO to the Government for its consideration. In Vanuatu's case, this process produced an outcome in the form of new forestry legislation in their Parliament. In PNG's case, by contrast, the proposed reforms have stalled.

One lesson is to reaffirm a basic point - that aid projects cannot be used as a substitute for a government's policy-making role. The main problem in the PNG case began before the law-making stage, in that policy decisions had not been made on certain fundamental issues, in particular, what should DAL's role be for the future? This was left for the consultants to propose, and there was strong disagreement between the major stakeholders over the answer to that question. The leadership of DAL itself felt that the consultants should implement its wishes - an outcome which would have satisfied DAL but no-one else. Without DAL's support, however, the consultants' reform proposals could only proceed if some other body in PNG's decision-making process took them up.

This raises the wider matter, of the difficulty involved in getting a mandate for change in the contemporary Pacific. The days when political parties produced their manifestoes before elections, as a policy platform for government, seem to be long gone. In any case, the fact that governments in recent times have frequently changed not as a result of elections but mid-term, following opportunistic switches by members of party allegiances and votes of no confidence, renders policy-making less important to a government than

shoring up its support. In the Vanuatu case, the mandate for change had its base in the major effort made to involve the community - from the village up - in developing the forestry policy. While costly and laborious, this process afforded a high degree of legitimacy to the legislative proposals which implemented the new policy. On the other hand, the then Prime Minister was able to push through a forestry law which had no such legitimacy, and indeed was opposed by all the senior Government officials most concerned. This shows that solid preparation, while it improves the chances of a reform negotiating the policy and law-making shoals, is neither sufficient nor essential to achieving that result.

There are other ways of gaining a popular mandate for reform, where the subject is one of major interest and importance to the wider community. Most Pacific Island countries have provision in their laws for setting up commissions of inquiry, with power to investigate particular matters and report to the Government with recommendations for action. This method was used with some success in PNG, when in 1973 the Commission of Inquiry into Land Matters was given the task of recommending policy responses to the major land issues facing the country on the eve of its independence. Backed by the authority of that report, major land law reforms were implemented during the 1970s. Since then, land law reform in PNG has been much more difficult, as the fate of the World Bank-inspired customary land registration proposals of the mid-1990s shows. In a taste of what was to come, the Government at the time was forced to back down on its proposals by student demonstrations, the burning of Government vehicles and threats of disorder in the Highlands. What this means, of course, is that countries cannot replace outdated laws - in PNG's case, land laws which go back to the colonial period, when priorities were very different and public consultation practically non-existent.

Another reform mechanism is the law reform commission, provided for in a number of independence Constitutions. Like commissions of inquiry, however, these too seem to have fallen into disuse. Recent crises in Pacific Islands states have prompted a rethinking of their systems of government. *In difficult policy areas - like land, forestry and agriculture - the challenge is to find ways of combining a high level of public involvement in policy-making with the practical ability for governments to bring laws into effect.* That, thankfully, is a challenge for a political scientist, not a lawyer.