

## Chapter 13

# Thirty Years of Law and Order Policy and Practice: Trying To Do 'Too Much, Too Badly, With Too Little'?

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Set against a background of significant levels of crime, violence, and conflict, concerns about 'law and order' have become prominent in public debate and private reflection throughout Papua New Guinea. 'Law and order' is a capacious term that relates to threats to personal and societal security, as well as to institutions, mechanisms and processes aimed at preventing or controlling these threats. In a country noted for its acute socio-linguistic diversity and limited sense of shared identity, discussion about 'law and order' has become a genuinely 'national' discourse. Whether in the rural village, urban settlement, suburban home, or government office — everyone has an opinion about 'law and order'.

Beyond this broad agreement, however, there lies a bewildering array of views about the nature of these problems, their perceived causes and impacts, and how they can be effectively addressed. These perceptions vary between different individuals and groups, as well as along lines of gender, class, and location. For women in many parts of the country, the main issue is that of personal security and freedom of movement, including the threat of family and sexual violence from intimates and strangers alike. Members of the business community voice their concerns in terms of the risk of theft, robbery, fraud, bribery, corruption, and the interruption of commercial operations, as well as the attendant costs of private security and insurance premiums. For many living in the towns and cities, it is the spectre of raskolism or violent street crime that poses the most persistent source of insecurity. In parts of the Highlands Region, it may be the threat of inter-group conflict or tribal fighting that poses the most pressing concern. For criminal justice professionals, it is the apparent impotence of the state's principal instruments of crime control — the police, courts and prisons. For political leaders and international donors, Papua New Guinea's law and order problems tend to be conceived primarily in development terms, as major obstacles in the way of much-needed foreign investment and the prospect of economic growth. More recently, concerns about transnational crime and 'terrorism' have been added to the discursive mix; these derive, in large part, from new global and regional security discourses that have emerged in the

aftermath of the dramatic attacks against the United States in September 2001 and the ascendancy of the Washington led 'war on terror'.

Viewed from a criminological perspective, there are complex historical and structural factors that have contributed to Papua New Guinea's fragile internal security. These include high population growth unmatched by economic development, growing levels of poverty and social exclusion, corruption and poor governance, deteriorating infrastructure and government services, pressures on land, internal migration and urbanization, uneven patterns of development, and the high levels of social dislocation accompanying Papua New Guinea's difficult integration into the global economy. Combined with the fragility and limited reach of state controls, and the erosion of traditional structures in many areas, these factors make for a fertile setting for dispute, conflict and criminality.

Although regularly acknowledging the deeper sources of conflict and lawlessness, the law and order policy responses of successive post-independence governments in Papua New Guinea have typically comprised crime control measures. Like their counterparts elsewhere, Papua New Guinea's political leaders have often resorted to short-term fixes reliant on relatively high profile (and expensive) control strategies, such as curfews and special policing operations, and, of course, increased penalties for offenders.

Despite the tough 'law and order' rhetoric, the actual implementation of announced policies and special measures has been regularly thwarted by lack of adequate resources and capacity on the part of government and its relevant agencies. This capacity deficit has become increasingly evident over the past thirty years, with state controls progressively overwhelmed by their internal weaknesses and the sheer scale of demands placed upon them. In light of the shortcomings of key agencies like the police, substantial levels of donor assistance, primarily from Australia, have been provided to Papua New Guinea. This, in turn, has made donor assistance an important factor in the shaping and implementation of policy in this area.

While few would deny the many institutional deficiencies in the workings of police, courts and prisons in Papua New Guinea, and the need to address them, it is important to understand these issues in the broader context of the relatively short history of modern criminal justice in Papua New Guinea and the enormously challenging and diverse social environment in which it operates. Expectations of the criminal justice system, particularly the police, have been unrealistically high. These agencies have been expected to deal with the complex fallout from broader processes of social and economic change over which they have little control but are nevertheless regularly blamed when levels of lawlessness and disorder increase.

The relatively weak presence of the state in parts of the country means that access to modern justice is severely restricted for many citizens. This situation

has worsened in line with the overall deterioration in government services in recent years. State institutions, including police and courts, remain predominantly urban-based, while approximately 85 per cent of the population lives in poorly serviced rural areas. From the vantage point of the ordinary villager, accessing the nearest police post, magistrate, or, indeed, telephone, might involve a lengthy and difficult journey by foot, truck, or canoe. In such cases, reliance for everyday security needs is more likely to be placed on available community-based structures and local kinship associations than on the formal law enforcement system. Likewise, the only option for addressing outstanding grievances may be resort to informal mechanisms of dispute resolution involving village leaders and elders rather than formal courts. The effectiveness of such mechanisms varies significantly. In some places, they may work reasonably well. In others, they are susceptible to capture by bigmen and other local elites and have been used to reinforce the subordinate position of more vulnerable groups, such as women or youth. Just as the capacity of the state has declined, so too has that of many 'traditional' and community-based approaches to the prevention and management of conflict.

The issue of whether, and how, to engage with the plurality of social control traditions and practices found in Papua New Guinea is another recurrent theme in discussions about law and order, as in other parts of the island Pacific. In its comprehensive review in 1984, the Clifford Report identified two basic ways in which the phrase 'law and order' has been used in Papua New Guinea. The first of these is a notion of peace and order as a state of affairs generated and maintained within a given community without any state participation (Clifford *et al.* 1984, 6). It is an aspiration of ordinary people who view it as essential to their fundamental wellbeing. This meaning, according to Clifford *et al.*, is the 'traditional' view of law and order in societies, as was the case in Papua New Guinea, which existed in the absence of any state. It is contrasted with a second meaning that vests the state with the dominant role in the maintenance of law and order. This is the state-centred view that provides the rationale for the elaborate systems of justice and law enforcement that exist in modern nation-states. More than thirty years after Papua New Guinea's independence, the inherent tension between these two competing philosophies of 'law and order' remains extant.

This chapter provides an overview of law and order policy in Papua New Guinea in the thirty years following independence (1975–2005). The aim is to identify broad patterns in policy thinking about law and order rather than provide an exhaustive account. This includes an attempt to differentiate, where possible, between policy intent and actual practice — what was implemented and what was not. After a short historical introduction to the law and order (now called law and justice) sector and its larger operating environment, the pattern of policy making and, in particular, the crisis-management approach

that was adopted during the first twenty years after independence is examined. There follows an account of some important, and more hopeful, developments that have taken place over the last decade, notably the relative stability achieved through the adoption of the 2000 national law and justice sector policy, the gradual move towards a sector-wide approach, and the accompanying adjustments in donor involvement with the sector. The longer history of Australian development assistance to the law and justice sector is then examined in more detail prior to some concluding remarks.

## **The law and order (law and justice) sector: history and context**

Popular accounts of Papua New Guinea's deteriorating law and order situation often give the impression that this is a recent phenomenon and is, moreover, largely the result of the mismanagement and personal shortcomings of incompetent and corrupt agency officials and political leaders. While the decline in recent times has been noticeable, and while incompetence and corruption have contributed, the real story is, as one might expect, somewhat more complicated. As Morauta (1986, 8) has pointed out, 'the seeds of today's social and institutional problems were sown well before 1975'.

The modern criminal justice system, like the modern state of which it is an integral part, has had a relatively short history in Papua New Guinea. Throughout most of the colonial period, there was no discrete system of criminal justice for local people. Instead, the policing, judicial, and penal powers of government formed part of an undifferentiated system of 'native administration' embodied in a set of paternalistic 'native regulations' that was aimed primarily at maintaining stability and a semblance of order among colonial subjects rather than delivering justice. This system was personified in the office of the patrol officer or *kiap*, who acted simultaneously as government agent, police officer, prosecutor, magistrate, and gaoler. The primary role of the 'native constabulary' (the forerunner of the Royal Papua New Guinea Constabulary (RPNGC)) was the extension of government control and only secondarily the control of crime. Given the limited aims and capacities of colonial administration, most Papua New Guineans continued to rely on customary or traditional means for the resolution of all but the most serious local disputes and for the provision of personal and community security.

This was to change gradually with the process of institutional modernization — or 'state-building' in today's parlance — that commenced in the 1950s and picked up pace in the 1960s. While *kiap* justice was a pragmatic strategy for the gradual expansion of administrative influence, it was considered inappropriate for the long-term governance of the Territory. Paul Hasluck, the long-serving and reform-minded Australian minister for Territories (1951–63), was intent on building a system of justice consistent with what he saw as the future political

needs of the Territory. Replacing the old colonial model with a centralized justice system administering a uniform body of law was viewed as a necessary condition for the self-government that would one day follow. The adoption of an Anglo-Australian system of law and justice was proposed in a major review of judicial administration, the so-called Derham Report (Derham 1960). This report became the blueprint for the system of law enforcement and judicial administration that Papua New Guinea inherited at independence in 1975.

An early priority was to establish a separation of powers between judicial, administrative, and executive arms of government. This meant supplanting the administrative model of colonial order with an independent, institutionally differentiated and professionally staffed justice system. A separate Prisons Branch was established in 1957 under the *Corrective Institutions Ordinance*. The police force was separated from the Department of Native Affairs in 1961 and in 1966 it was removed from the control of the Public Services Commission in order to ensure its neutrality. Mobile squads were established after the police reorganization in 1966 and were used in response to a revival of tribal conflict in the highlands, as well as growing anti-government protests in a number of areas. The transition from the old colonial style of policing to a professional and independent constabulary was a difficult one and, in some respects, remains a work in progress.

The system of courts also underwent significant changes from the mid 1960s, with the introduction of more formal court procedures applicable to both indigenes and foreigners. Local and district courts were established in 1963 and connected through appeal to the superior courts. Most of the old 'native regulations' were repealed in 1968, and the new inferior courts were mandated to administer summary offences codified in modern criminal statutes modelled on Australian legislation. Provision was made for training Papua New Guinean magistrates at the Administrative College established in Port Moresby in 1964. Indictable offences continued to be provided for under an outdated version of the Criminal Code of Queensland.

By 1975, Papua New Guinea had acquired the institutional framework of a modern Anglo-Australian justice system. However, these institutions and their operations remained unfamiliar to many Papua New Guineans. The emphasis on due process, individual responsibility, and punishment rather than restitution, caused confusion in many rural areas where they often clashed with local perceptions about how disputes should be resolved (Strathern 1972). Rapid localization resulted in the replacement of many seasoned officials with less experienced personnel, which compounded the difficult birth of the modern law and justice system. The police force was arguably 'the most crippled of any government agency' (Dorney 2000, 304). Its coverage in 1975 extended to only 10 per cent of Papua New Guinea's total land area and 40 per cent of the

population (quoted in Dorney 1990, 296). Many of its problems were attributed to inexperienced and untrained staff, including an acute shortage of commissioned officers and senior NCOs (Dorney 2000, 304).

A range of social and political problems emerged during the decolonization period that were to challenge the authority and capacity of the independent state. While most of these were already evident in the final period of the colonial administration (Nelson 2003), once independence was granted the 'fundamental opposition between indigenous people and colonial powers was displaced by a far messier array of local divisions' (Otto and Thomas 1997, 4). Some of these related to the aggravation of longstanding antagonisms between local groups, while others arose from divisions and tensions of more recent origin. The most serious manifestations included micronationalist movements in some of the more developed regions, notably Bougainville and the Gazelle Peninsula; the revival of tribal fighting in parts of the highlands; and the rise of street crime in the main urban centres.

The incidence and intensity of tribal fighting have increased in the post-independence period. Growing numbers of fatalities and serious injuries have resulted from the introduction of modern firearms (Burton 1990, 25). Crime control responses, consisting primarily of the deployment of mobile squads, have had little positive impact and, in the opinion of some observers, have often served to prolong fighting (Mapusia 1986, 108). Recent evidence suggests that tribal conflict — long viewed as a rural phenomenon confined to certain highlands provinces — has become a major source of tension and violence in some of the larger towns, including Port Moresby (Haley and Muggah 2006).

The most notorious manifestation of Papua New Guinea's law and order problems has been the steady rise in violent urban crime, widely attributed to raskol gangs comprising adolescent boys and young men. By the second half of the 1980s, criminal gangs had entrenched themselves as a menacing feature of the urban landscape, with sophisticated networks extending across the country (Harris 1988). The widespread availability of small arms and light weapons, often sourced illegally from the defence force and the police, has added greatly to problems of criminal violence (Alpers 2005). Raskolism has also spread to many rural areas. Violence against women, including rape, is a problem throughout the country. In a series of studies in the 1980s, the Law Reform Commission documented endemic violence within marital relationships (Toft 1985, 1986). Sexual assaults are also commonplace outside of marriage. High levels of rape and sexual abuse have, in turn, contributed to the prevalence of STDs and rapid spread of the HIV/AIDS epidemic currently gripping Papua New Guinea.

With an establishment of just over 5,000 sworn officers, the size of the RPNGC has not grown significantly since independence despite the population having more than doubled from 2 million to over 5 million people during the 1975–2005

period.<sup>1</sup> The police to population ratio in Papua New Guinea was estimated at 1:1121 in 2002, substantially below the 1:380 ratio in 1975 and well under the U.N. recommended ratio of 1:450 (Public Sector Reform Management Unit 2002, 63). Policing problems are a significant part of the difficulties facing the administration of criminal justice in Papua New Guinea. While the RPNGC appear incapable of successfully undertaking routine criminal investigations and apprehending suspects, prosecutions often fail for lack of adequate evidence and preparation. Lengthy delays in the processing of court cases have resulted in large numbers of detainees on remand awaiting their hearings, while mass escapes from the country's prison system are a regular occurrence.

Charges of ill-discipline and serious human rights abuses are levelled regularly against the RPNGC (Human Rights Watch 2005). Although susceptible to exploitation by vexatious litigants, a significant proportion of civil claims against the state originate in allegations of police violence. A 2004 review of the RPNGC commissioned by the Papua New Guinea government concluded that 'policing was close to total collapse' in many parts of the country (Administrative Review Committee 2004, 40). Responsibility for this alarming state of affairs was attributed to a lack of government support and direction; ineffective police leadership; inadequate and unreliable provision of resources to do the job; unpaid allowances and entitlements; barely adequate salaries; system-wide lack of discipline, accountability and self-respect; almost total absence of community trust and respect; and political interference in police operations.

## **Policy responses — rhetoric and practice**

### **1975–1997: managing crisis**

Early law and order policy was *ad hoc* and reactive. Weaknesses included a lack of strategic planning, monitoring and evaluation, chronic policy inconsistency, and an absence of coordination between the principal agencies. Budget appropriations were more often the result of competitive negotiations between senior officials than the outcome of a rational assessment of the needs of individual agencies. The sheer number of agencies and departments make this one of the most challenging sectors of government. At present, the law and justice sector is made up of the Department of Justice and Attorney General, National Judicial Staff Services, Ombudsman Commission, RPNGC, Correctional Services, Magisterial Services, Office of the Public Prosecutor and Public Solicitor. Since the late 1990s, the Department of National Planning and Rural Development has taken a lead role in attempting to improve coordination and planning across the sector. Each department and agency has their own structures, operating procedures and corporate plans. Constitutional doctrines such as judicial independence impose further limits on inter-agency coordination.

Over the years, there have been numerous reports and policy reviews, and various attempts to establish mechanisms for coordination, as well as efforts — usually with significant donor input — to strengthen the institutional capacities of particular agencies. Policy reviews and crime summits have generated long lists of recommendations aimed at improving the functioning of agencies, enhancing inter-agency cooperation, strengthening crime control, reforming the law, and, more broadly, measures to address the underlying causes of lawlessness. While there may be some value in such exercises, they often produce extensive ‘wish lists’ that lack overall coherence and that make few concessions to the reality of resource constraints and limited institutional capacity. Moreover, these lists often fail to prioritize recommendations, provide costing or implementation plans, or integrate proposed changes with ongoing programs and plans in the agencies concerned. Implementation of recommendations arising from reviews is invariably partial and selective.

Lack of government support and effective leadership in the agencies has been a persistent problem. As in many other areas of policy, there has been little consistency between different governments and departmental administrations. New ministers and senior officials have sought to make their individual mark, often by deliberately distancing themselves from their predecessor’s initiatives. There has been a preference for setting up new mechanisms and initiatives rather than improving existing structures. Many of the same recommendations appear time and again, indicating the gap between policy rhetoric and implementation, as well as a serious lack of corporate memory among decision makers. Political leaders have been more concerned with responding to public pressure for quick-fix solutions than with engaging in the less glamorous task of sustained capacity building and reform aimed at improving the effectiveness of the criminal justice system. As in many other countries, the concerns and attention spans of politicians have often been short-term with a focus on symptoms rather than upon systemic problems.

There are numerous examples of this haphazard approach. In the first decade of independence, a crisis management approach evolved that was to prevail for the next two decades. Periodic crime crises contributed to mounting public anxiety and highlighted the acute limitations of routine law enforcement procedures as a deterrent to criminal violence. Various attempts were made to enhance coordination among the law and order agencies but pressure for immediate results usually inclined political leaders towards high profile crime control measures aimed at achieving short-term impacts. Reviewing the first ten year’s of Papua New Guinea’s law and order policies, Louise Morauta remarked that:

Government response to law and order problems has frequently been a response to crises in public opinion or particular events, and is marked

by fluctuations of interest. It also reflects the dispersed nature of government efforts: with a considerable number of different agencies making rather independent contributions. There has also been uncertainty about appropriate coordinating mechanisms (Morauta 1986, 8).

The growing focus on law and order as a major policy challenge is evident from the early 1970s. Concerns with the revival of tribal fighting led to the establishment of an official investigation that, among other things, 'heard many complaints of a lack of judicial and police presence at village level and considers this lack as one of the prime causes of increased lawlessness in the Highlands' (Papua New Guinea 1973, 7). *The Inter-Group Fighting Act* was passed in 1977. It provided for the declaration of 'fighting zones' in affected areas and a reversal of the onus of proof in certain criminal proceedings. However, the Supreme Court later declared a number of its provisions unconstitutional (Constitutional Reference No. 3 of 1978, *Re Inter-group Fighting Act 1977, Papua New Guinea Law Reports* 1978). In 1979, the government resorted to the declaration of a state of emergency in all five highlands provinces in response to tribal conflict.

The need for juvenile justice, police and prison reform, and improved coordination between agencies, were identified by a Peace and Good Order Committee set up to investigate rising urban crime (Papua New Guinea 1974). An international seminar on crime prevention in Port Moresby in 1975 led to the setting up of a Crime Prevention Council comprising senior agency officials. The seminar report advised that Papua New Guinea's crime problems were closely linked to the weakness of its policing system (Biles 1976).

In 1977, the government commissioned a wide-ranging review of the role and needs of the RPNGC. The task force conducting the review made various recommendations, including the need for a clear and concise policy on policing, improved training, and the streamlining and review of the pay system (RPNGC 1977). While the government accepted the report, there was no systematic implementation of its findings. In 1981, the Port Moresby Committee for the Promotion of Law and Order was established at the instigation of the prime minister to provide a community voice on law and order matters. Following this, an Inter-Departmental Committee of Review on Law and Order was created in 1982 in an attempt to coordinate expenditure and funding of the main law and order agencies. However, this committee became 'largely a trading exercise by the law enforcement departments for a share of the available financial cake' (Clifford *et al.* 1984, 117).

Two major reports were published in 1984. The first of these was from the Committee to Review Policy and Administration on Crime, Law and Order established by the National Executive Council (NEC (cabinet)) under the chairmanship of a senior public servant, Leo Morgan (Department of Provincial

Affairs 1983 [the Morgan Report]).<sup>2</sup> This report originated in a recommendation made by a sub-committee on law and order established at a meeting of the Premiers Council at Arawa, North Solomons Province, in October 1982. The terms of reference laid down by the NEC called for a comprehensive review of government policy and administration relating to law and order. As well as examining the law and order agencies, the report dealt with many social and economic issues in discussing the wider genesis of lawlessness. Key recommendations included:

- creation of a Crime Commission to integrate the planning and coordination of individual agencies;
- creation of a Commission of Employment and Production to generate employment, particularly for youth;
- creation of a youth management team to plan and implement youth policy;
- control over production and consumption of alcohol;
- establishment of ward committees and more urban village courts;
- extension and strengthening of the Leadership Code;
- strengthening of party discipline in parliament.

The second report was a joint initiative between the Institute of National Affairs, a private-sector think tank, and the Institute of Applied Social and Economic Research, a government-funded research body (Clifford *et al.* 1984). An anthropologist with longstanding Papua New Guinea experience, a former National Court judge, and the director of the Australian Institute of Criminology wrote the report. It documented the shortcomings of individual agencies and was critical of the weakness of planning and budgeting across the sector. Instead of inter-agency coordination, it stated that planning was conducted in isolation, while budgeting was a process of competitive negotiation between agencies pursuing their own institutional interests. A separate Law and Order Policy Development Unit staffed by non-agency personnel was proposed. This unit would advise the NEC and line agencies on law and order policy, evaluate programs, and monitor the implementation of NEC decisions.

A distinguishing feature of the Clifford report was its emphasis on the need to reduce the perceived gap between the realm of formal state justice and the myriad informal institutions of social control operating at community levels. In this regard, the report recommended a gradual shift in policy towards one that sought to incorporate informal (non-state) mechanisms in the maintenance of order and dispute resolution, while gradually reducing what it viewed as over-reliance on formal (state) structures (*ibid.* 252–253).

The radical character of the Clifford report was its move beyond a conventional focus on formal state agencies and its emphasis on the need to try and accommodate community-based mechanisms prevailing in rural and urban village settings. At its core was a critique of the appropriateness and sustainability

of institutionalized criminal justice in Papua New Guinea and recognition of the existence of non-state resources that could be mobilized to enhance security and safety at local levels. Commenting on the evident deficiencies of the formal agencies, the report stated that:

(T)he possibility that existing services may be defective or inefficient — not because they are starved of resources but because they are either irrelevant to the situation in Papua New Guinea or refusing to work with communities — does not seem to have detained people long (*ibid.* 125).

Clifford *et al.* made the case for improving the articulation between state and non-state approaches to the maintenance of order and resolution of disputes. Engaging with ‘traditional’ and other community-based mechanisms was — and remains — a major challenge to those working in the formal justice sector. For many, such a move is viewed as threatening to their institutional and professional domains, as well as being potentially corrosive of the rule of law. The Clifford analysis also raised — without providing many answers — difficult practical issues about how to render operational the community engagement being proposed.

Detailed consideration of these two reports was diverted by an escalation of violent crime in Port Moresby in late 1984. Following a series of widely publicized criminal attacks, including the pack rape of a New Zealand woman and her daughter, which provoked the largest public demonstration in the capital’s ten-year history, the NEC agreed to a package of forty-nine crime control measures. These measures, many of which were distilled from the Morgan and Clifford reports, provided ‘something for everyone in cabinet’ and lacked any ‘clear overall theme’ (Morauta 1986, 9). One of the authors of the Clifford report complained of the ‘great difference of emphasis’ between the report and the government’s announced measures (Bill Clifford quoted in INA 1991, 2). The latter included proposed changes to laws, strengthening law and order agencies, support for village courts and urban local governments, improved police-community relations, ID cards, street lighting, and a review of urban settlement policy. More draconian proposals included mandatory corporal punishment for rape and violent crimes, boom gates for the major towns, and a review of the *Vagrancy Act*.

A small part-time implementation task force — replaced by a full-time body in 1985 — was formed to report to a Ministerial Committee on Law and Order. It prepared an NEC submission to review implementation of the forty-nine measures and identify funding priorities. However, a further spate of criminal violence in Port Moresby persuaded the government to take even more drastic action and the submission was never considered. In June 1985, Prime Minister Somare declared a state of emergency in the National Capital District (NCD), stating that the police were incapable of controlling the deteriorating situation

using their normal powers (*Draft Hansard, Tenth Day, 12 June 1985, 20*). As mentioned earlier, a state of emergency had been declared in the highlands in 1979 but this was the first and only time it was used against urban crime. The 1985 emergency allowed the government to deploy the defence force in a civil capacity, increase police powers, prohibit public demonstrations, and impose a nightly curfew. For most Port Moresby residents, this measure brought welcome, albeit temporary, respite. Despite an estimated cost of K2.9 million (*Papua New Guinea Post-Courier 2 October 1985*), it also provided the government with an unequivocal expression of its commitment to confronting crime. Restrictions on movement and the presence of large numbers of police and soldiers ensured a significant reduction in reported crime. Raids by security personnel resulted in numerous arrests, seizure of stolen property, and the recapture of approximately 160 prison escapees.

The 1985 emergency set in motion what was to become a familiar pattern of reactive responses to localized outbreaks of criminal violence. These have typically included the announcement of an elaborate package of crime control measures with 'something for everyone', special policing operations, and, in the most serious cases, the imposition of temporary restrictions on movement. Prior to 1987, a curfew could only be imposed under the auspices of a state of emergency declared under the constitution. However, the *Curfew Act* of 1987 provided for the declaration of a curfew independently of a state of emergency. This served to normalize curfews as a routine instrument of crime control. Defence Force and Correctional Service personnel — the other two components of Papua New Guinea's 'disciplined services' — have also been used to supplement over-stretched police on such occasions. While relatively few of the announced measures are implemented, the immediate impact of curfews and special security operations was the temporary restoration of public order and confidence until the next build-up when the whole process would be repeated again (Dinnen 2001, 63–71).

This normalization of emergency powers was, among other things, an acknowledgement of the weakness of institutionalized criminal justice practice in the face of serious escalations in violence and disorder. Supplementary measures were aimed at restoring order in designated areas through a combination of restrictions on movement, punitive raids, and orchestrated displays of militaristic strength. These displays belied the actual capacity of Papua New Guinea's security forces to control crime and disorder on any significant scale. While providing short-term relief in the areas concerned, curfews and other special operations had little lasting impact on crime. Once the restrictions were lifted, crime rates begin to rise again. Such strategies were also extremely costly and further reduced resources available for general policing and other law and justice services. In addition, the arbitrary targeting of 'suspect communities' and the violence that routinely accompanies police raids, served to further

aggravate high levels of distrust between police and many local communities. The concentration of crime control measures in particular areas also contributed inadvertently to the expansion of criminal networks as suspects moved to other towns and areas to avoid apprehension.

On assuming office in mid 1988, the Namaliu-led government promptly identified law and order as one of its policy priorities. A Ministerial Committee on Law and Order was established with wide terms of reference. These included the formulation of law and order policy; liaising with relevant government agencies; coordinating and monitoring law and order policy; and advising on crime rates, types of crime, treatment of offenders, and the effectiveness of the criminal justice system. Papua New Guinea's first National Law and Order Policy, prepared by the Ministerial Committee chaired by Justice Minister and former judge Bernard Narokobi, was announced in August 1988.

The policy comprised an extensive set of recommendations aimed at improving the workings of justice and law enforcement agencies, as well measures to address underlying causes, such as enhanced law awareness, education, labour and employment, and urban development. There was also an ambitious plan to create a 'super ministry' — the Ministry for Law, Order and Social Justice headed by either the prime minister or deputy prime minister assisted by assistant ministers or ministers of state (Papua New Guinea 1988, 43). This single ministry would be responsible for the entire array of law and order related agencies, including the courts and tribunals, the state solicitor, public prosecutor, police, correctional service, public curator, registrar-general, juvenile justice, secretary and principal legal advisor, ombudsman commission, law reform, and censorship board. Needless to say, the considerable practical and constitutional difficulties entailed in bringing so many institutions and agencies together ensured that no such 'super ministry' eventuated. It was also recommended that a permanent Law and Order Secretariat be established outside the Justice Department to coordinate programs among different agencies and departments, and non-government organizations. Provincial law and order committees would provide coordination in the provinces.<sup>3</sup> There was also a proposal to establish a Law, Order and Justice Foundation to engage with the wider community and secure funds for local programs.

The Foundation for Law, Order and Justice (FLOJ) was formed out of the Papua New Guinea Community Law Awareness Program in 1989. FLOJ was incorporated as a private company and initially received support from government and the private sector. Its objectives were to undertake research, policy development and advice, program design and implementation, and coordination between government law and order agencies. NEC later approved a merger between FLOJ and the existing Secretariat for Law and Order and the merged body was given the task of advising the Ministerial Committee for Law,

Order and Justice. However, the Ministerial Committee was abolished in 1990 as part of a government cost-cutting exercise (INA 1991, 21). FLOJ survived for several years as an independent proponent of crime prevention and community-oriented justice initiatives. It was also the basis for another NGO, Peace Foundation Melanesia, which emerged in the second half of the 1990s.

Following another law and order crisis in Port Moresby, a National Crime Summit was held in February 1991. The Namaliu government announced a package of crime control measures that included the reintroduction of capital punishment for murder, rape, and drug offences; the tattooing of convicted offenders; additional maximum security prisons; identity cards; vagrancy laws; and the forcible repatriation of 'unemployed people and troublemakers' (*Papua New Guinea Post-Courier* 15 March 1991). Foreshadowing developments more than a decade later, the Summit also called for the deployment of Australian police in line positions in the RPNGC. Capital punishment was subsequently re-introduced as an available sentence in the case of convictions for wilfull murder. In response to the summit, the prime minister's department — echoing earlier calls — requested the setting up of a National Crime Council to coordinate all crime control and prevention measures, advise government, and monitor the overall crime situation (INA 1991, 30).

The Namaliu government also threw its support behind a controversial proposal to establish a National Guard. In March 1991, NEC approved the establishment of a National Guard Task Force to provide one year of national service training to all young men aged between thirteen and nineteen years with an emphasis on military training, discipline and community work (*Papua New Guinea Post-Courier* 15 March 1991). Karl Stack, the minister for Forests and originator of the scheme, announced that a force of up to 5,000 Nepalese Gurkhas would conduct the training. However, the prospect of Gurkha-trained youth roaming the towns and countryside on the completion of their national service led to growing opposition to the proposal. Despite attempts to replace the militaristic model with one that stressed personal development and vocational training, the scheme was never implemented (*Times of Papua New Guinea* 6 June 1991).

In mid 1991, the government published a strategic paper, *Security for Development*, with the stated aim of integrating its response to the earlier crime summit into a comprehensive and planned approach to law and order. The paper noted that:

Previous attempts to deal with crime in Papua New Guinea have sometimes suffered from rushed decision-making, based on insufficient information, analysis, and allocation of resources, and followed by inadequate implementation and feedback (Papua New Guinea 1991, 2).

It also acknowledged that the security forces (police and Defence Force) were unable to cope with rising levels of lawlessness and disorder and that the most serious security threats facing Papua New Guinea were internal rather than external. This view was shared in Canberra, and in the same year the Papua New Guinea and Australian governments released a joint statement announcing that Papua New Guinea would give the highest priority to internal security needs, while Australia would assist Papua New Guinea's disciplined forces maintain internal security.

*Security for Development* called for an expert body to monitor and give advice on crime, and the establishment of an Office of Security Coordination to provide policy advice on security needs. An Office of Security Coordination and Assessment (OSCA) was subsequently established in the Department of the Prime Minister, in mid 1991, to coordinate, in consultation with law and order and security agencies, the implementation of government policy.

Paias Wingti became prime minister in 1992 and set up a National Law, Order and Justice Council (NLOJC). FLOJ served as a secretariat to the new Council which was charged with making recommendations to the Policy Coordination and Management Committee (PCMC) in the prime minister's department and through it to the National Planning Council. Its principal task was to develop a new law and order policy and detailed program of implementation. Approved by the NEC in late 1993, the aims of this — the second — national law and order policy were:

- to control, reduce and prevent crime, and provide a safe and secure environment for human development;
- to increase community participation in the preservation of social order, and to take local direction on law and order maintenance and problem identification;
- to improve the efficiency with which resources in the law and order sector and supporting agencies are used; and
- to develop disciplined and professional law and order personnel and agencies which have good working relationships with the people they serve and to foster efficiency and honesty among political and bureaucratic officials and institutions responsible for law and order policy and programs (Papua New Guinea 1993).

Various working groups comprising agency officials and representatives from the non-government sector convened to finalize programs and implementation strategies in six broad areas:

1. local level relations and relations with wider social and economic concerns;
2. research and information systems;
3. manpower, facilities and equipment;
4. coordination and efficiency;
5. corruption and management;

6. budgeting and planning capacity for the sector.

The working groups did a great deal of work in 1994 and a number of projects were ready for implementation. There was also an attempt to integrate the recommendations of yet another law and order report that had been prepared independently by an adviser to the prime minister in 1994 (Spencer Report 1994). The latter included proposals for greater integration of the functions of the disciplined forces, improved national planning and training, emphasis on mediation and conflict resolution, and enhanced national awareness of law and order developments. While devoting considerable time to policy development, the Wingti administration was not immune to more reactive responses in the face of periodic crime crises. For example, in 1993 it announced a familiar package of repressive measures. Measures implemented included the passing of the controversial *Internal Security Act*, which was consistent with the broader trend of normalization of emergency powers and allowed for severe restrictions on freedom of movement and association in areas affected by high levels of crime or social disorder (Dinnen 1993). In reality, the capacity of the Papua New Guinea state to implement such measures beyond narrowly prescribed localities was — and remains — extremely limited. In addition, the Supreme Court in 1994 upheld a constitutional challenge against certain sections of the act on the grounds that they were inconsistent with due process provisions of the constitution.

Sir Julius Chan succeeded Paias Wingti as prime minister in August 1994 and replaced the former Council (NLOJC) with a new Law Order and Administration Committee chaired by a senior bureaucrat. The committee was tasked with preparing the Chan government's policy on law and order, but, as far as is known, no policy was ever produced. Most of the energy of the new administration was expended on addressing Papua New Guinea's rapidly deteriorating fiscal situation. Measures adopted included the devaluation of the national currency (the *kina*) in mid September, followed by its flotation in early October 1994. Calls to declare a state of emergency or impose a curfew in Port Moresby were dismissed by senior police officers as 'too expensive' (*Papua New Guinea Post-Courier* 24 November 1994). Continuing public concern with urban crime led Prime Minister Chan to declare 1996 'the year of law enforcement' and announce a series of measures to increase 'police firepower' and target 'hard-core criminals' (*The National* 6 November 1996). Late the following year, a nationwide curfew was introduced, initially for two months but subsequently extended for an unprecedented period of nine months in the NCD (*The National* 11 August 1997). The Chan government lost office in 1997 in the wake of the tumultuous Sandline Affair (Dinnen *et al.* 1997). It was succeeded by the volatile Skate administration, which was, in turn, replaced by the reformist government led by Sir Mekere Morauta in 1999. During the Skate administration, a Law and Order Summit in Port Moresby resulted in the announcement of a package of

(over 50) familiar strategies designed to counter lawlessness. A Plan of Action for Law and Order 1999–2002 was prepared as an NEC submission but never formally approved.

By the mid 1990s, the most critical problems facing Papua New Guinea's struggling criminal justice system were well known. These included:

- the paucity of reliable criminal justice data on which to base planning, forecasting, and the evaluation of particular initiatives;
- a growing backlog of cases in the court system;
- a low success rate for arrest, investigation and prosecution of crimes;
- limited access to legal aid;
- over-reliance on the formal justice system and custodial sentences and lack of articulation with community-based dispute resolution processes and use of alternatives to imprisonment;
- a very high prison remandee population;
- mass prison breakouts;
- widespread abuse of police powers;
- large numbers of outstanding civil actions against the state arising from police actions and the loss of large sums as a result of successful claims;
- systemic problems of financial and personnel management;
- inadequate levels of government support; most agency budgets were directed to salaries, allowances and utilities, with little, if any, funding remaining for goods, maintenance and other services.

These problems had been exacerbated by the chronic lack of policy consistency and absence of coordination between agencies in the sector. As stated in a joint review of the law and order sector in 1993 under the Papua New Guinea-Australia Development Cooperation Programme:

(T)he development of functions for justice agencies is plagued by *'too much, too badly, with too little'*. With regular shifts in government thinking on law and order, it becomes both problematic and unrewarding for agencies to engage in even medium term planning exercises. Lack of consultation across the sector exacerbates the difficulties in planning. These difficulties are further compounded by the focus, in the consultation that does occur, on budgets and expenditure control to the exclusion of any consideration of the merit of program-based arguments (Papua New Guinea-Australia Development Cooperation Program 1993, emphasis added).

### **1997 and beyond. Towards a measure of stability?**

A serious attempt to move beyond this sorry state of affairs commenced in 1997. This began as a low profile effort initiated by concerned senior law and order bureaucrats. The Office of National Planning — a key central government agency

— convened two workshops on the Law, Order and Justice Sector, in May and July 1997. An initial aim was to familiarize policy officers in the different agencies with the earlier work of the National Law, Order and Justice Council. The main objective was to develop an overall sector plan with strategies for implementation at national, provincial and local levels. A Law and Justice Sector Working Group comprising senior officials from the main law and justice agencies was set up and began to meet regularly under the auspices of the Office of National Planning. Rather than coming up with yet another policy, the Working Group set out to integrate previous policies and recommendations into a single policy framework for the whole sector. It was, in essence, a task of consolidation rather than innovation, and was entrusted to experienced sector professionals rather than politicians.

After reviewing past initiatives and undertaking consultations with stakeholders, the Working Group finalized a draft National Law and Justice Policy and Plan of Action in December 1999 and this was subsequently endorsed by the NEC in August 2000 (Papua New Guinea 2000). The 2000 policy provides a broad vision statement for the sector as a whole. Replacing the term 'law and order' with 'law and justice' reflected, among other things, a desire to move away from the singularly reactive approach associated with the former term. The fact that the policy has survived to date, notwithstanding a change of government, distinguishes it from its predecessors and has provided a welcome element of stability and continuity.

The contents of the policy are organized around three broad pillars. The first recognizes the need to continue to improve the efficiency of the formal criminal justice system through capacity building with individual agencies and initiatives aimed at strengthening multi-agency approaches and greater community participation in areas such as juvenile justice, law reform, rehabilitation strategies, and anti-corruption. The second pillar addresses the critical issue of sector-wide coordination and the need for appropriate coordinating structures, systems and processes. It is premised on, among other things, the high level of interdependence between the law enforcement and justice agencies in practice and the need to move towards a sector-wide approach in the area of criminal justice. The third pillar addresses the need to develop effective crime prevention and restorative justice strategies in partnership with community-based organizations, particularly at local levels. As such, it echoes the Clifford Report's concern with improving the articulation between formal and informal realms of justice.

In early 2003, the government established a National Coordinating Mechanism (NCM) as the principal vehicle for promoting sector-wide coordination at the national level, as envisaged in the policy. The NCM comprises the heads of the sector agencies and is chaired by the secretary of the Department of National

Planning and Rural Development.<sup>4</sup> Meeting on a monthly basis, the NCM's role is to set policy, decide strategies and priorities, and promote coordination across the sector. While the NCM remains light on civil society representation, the fact that regular meetings are now being held between senior executives of the principal agencies is a significant step forward. Strengthening coordinating mechanisms at provincial levels is the next step. The Law and Justice Sector Working Group acts as a secretariat to the NCM. This group, formed in the late 1990s, has been a critical driver of policy reform and sectoral coordination at the operational level.

Consistent with the Papua New Guinea policy and larger changes in Canberra's approach to development assistance, Australian aid has shifted progressively from support of individual agencies to a sector-wide approach. As stated in a joint review in 2000 of the law and justice sector under the Papua New Guinea-Australia Development Cooperation Program:

Australia is now well placed to assist in a more integrated way and could not have contemplated sectoral approaches when key elements within the sector were not addressed. This fundamental sector objective for future Australian assistance not only acknowledges the high levels of interdependence between each sector component but also provides practical support and encouragement to sector agencies seeking to implement the National Law and Justice Policy that Australia has agreed to support (Papua New Guinea-Australia 2001, ix).

Australian support is now channelled through a single facility, the Law and Justice Sector Program (LJSP). The LJSP is designed to work through Papua New Guinea's own management systems and includes the provision of imprest account funding, technical assistance, infrastructure, training, procurement of materials and equipment, disbursement of grants, and support for community-based initiatives.

A Community Justice Liaison Unit (CJLU) was established as an innovative mechanism to promote the engagement of civil society organizations in the law and justice sector with a focus on crime prevention, restorative justice and partnerships for change. The kind of work undertaken by the CJLU includes:

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

The program approach in the law and justice sector is being implemented initially over a 5-year period and Australia has committed \$A170 million for this purpose for the period 2003–8. An Australian-funded Justice Advisory Group (JAG) has

also been set up to provide independent technical advice to the Papua New Guinea government and AusAID on the performance of the law and justice sector. The JAG, which will be phased out in 2008, aims to:

- provide independent advice to support the Papua New Guinea government in its role of sector monitoring and evaluation of performance of the law and justice sector, including impact and outcomes of government and donor funding;
- advise on policy, structural, financial or other issues for the law and justice sector;
- provide specialist technical advice in relation to policy, management and/or organizational matters;
- assist in the promotion of sector coordination and monitoring, the development of agreed sector outcomes and indicators, and the collection of sector performance information.

While Australian assistance previously struggled for traction in Papua New Guinea's uncertain and fluid policy environment, it is obviously easier to integrate donor activities now that Papua New Guinea has a relatively well established policy framework. Integration in this sense is also facilitated by the adoption of a sector-wide approach by both the Papua New Guinea government and AusAID.

## **The changing character of Australian assistance to the Papua New Guinea law and justice sector**

### **Conventional institutional strengthening**

Australia's development assistance program has undergone a series of changes since independence, moving progressively from budget support (the primary form of assistance from 1975 to 1989) to program aid in the 1990s. In the thirty years following independence, more than \$A240 million was provided to strengthen Papua New Guinea's law and justice system. Reflecting concerns with the deteriorating capacity of the police and a conventional view of the centrality of police systems in the management of crime and disorder, 69 per cent of this assistance was directed at the RPNGC (AusAID 2003, 36). Prior to 1989, numerous police training courses, missions, police postings and consultancies were undertaken through AIDAB (now AusAID), the Australian Federal Police (AFP), and various Australian state police forces. A series of design and appraisal missions developed a proposal for a RPNGC development project. Phase I of the project began in 1989 with a core focus on organizational development, human resource management, and development of training and management systems. Commencing in January 1993, Phase II provided operations support and training. The focus was on advisers facilitating improvement rather than directly implementing change. Phase III began in March 2000 and was extended until 2005 before being folded into the new sector-wide law and justice

program. It represented a departure from the first two phases and attempted to improve the capacity of the RPNGC to effectively enforce law and to work with the community to preserve peace and good order. This phase also had a significant capital works component.

Despite the criticisms leveled at the RPNGC development project, there is little doubt that it contributed in a number of technical areas, though how sustainable the benefits were remains an open question. Against a domestic context of chronic under-resourcing and other problems, it has also been argued that, 'the project helped maintain the constabulary's operations at an acceptable level' (Wan 2000, 112). In other words, without the material support provided by the project, the condition of the RPNGC would probably have deteriorated even faster than it has. However, few would disagree with the general conclusion that the results of over fifteen years of institutional strengthening have been disappointing. In terms of overall improvement in police performance, positive outcomes are hard to discern.

Such an assessment is by no means confined to the RPNGC development project. All of the criminal justice agencies have experienced varying degrees of difficulty in absorbing, implementing and sustaining the new ideas and practices promoted through large-scale institutional strengthening projects operating within strict budgetary and contractual timeframes. In addition, the perennial problem of inadequate and poor management of resources facing the principal agencies has served to marginalize 'development objectives until operational priorities, such as payment of wages, utilities, food bills, vehicle and equipment maintenance, are met' (Pitts 2002, 0113).

As outlined in Table 13.1, Australia has supported institutional strengthening activities with most of the principal agencies, including the Attorney General's Department, courts, prisons, the ombudsman and the public legal services.

## New security agendas

In mid 2003, there was a significant shift in Australia's strategic thinking and engagement with the Pacific islands region, including Papua New Guinea. This entailed the adoption of a more robust stance with an emphasis on timely and tangible outcomes and a growing insistence on securing 'value for money'. The broader context of these changes was the dramatically changed international security environment following the attacks against the United States on 11 September 2001. Subsequent 'terrorist' attacks closer to home, notably in Indonesia, accentuated the potential security risks posed by struggling states in Australia's immediate neighbourhood.

**Table 13.1 Australian Development Assistance to the Law and Justice Sector (up to 2005)**

Agency/Scope	Project Title	Duration	Cost (\$A million)
Attorney General's Department	Attorney General's Department Institutional Strengthening Project	1999–2003	7.673
Correctional Institutions Services	Correctional Services Development Project	Phase I: 1992–1995 Phase II: 1996–2002	2.100 10.000
Royal Papua New Guinea Constabulary	RPNGC Development Project	Phase I: 1989–1992 Phase II: 1993–1998 Interim: 1999 Phase III: 2000–2005	29.700 79.000 4.000 41.200
Ombudsman Commission	Ombudsman Institutional Strengthening Project	1997–2002	5.950
Sector-wide	Justice Advisory Group (JAG)	2002–2005	4.500
Sector-wide	Law and Justice Sector Program	2003–2008	170.000

Source: AusAID Website, [www.ausaid.gov.au](http://www.ausaid.gov.au)

One practical outcome was the progressive securitization of Australian development assistance with a strong emphasis on enhancing the security capabilities of neighbouring states viewed as vulnerable. An effective law and justice system and, in particular, efficient police structures, was seen as a critical bulwark against insecurity and instability. The focus on security has also been accompanied by a shift in modes of delivery, with increasing resort to the direct insertion of Australian personnel, including police officers, into 'inline' positions in institutions being strengthened, rather than the former reliance on advisers working alongside local counterparts. There is also growing emphasis upon a whole-of-government approach to capacity building, with a range of Australian government agencies involved in development assistance work.

This changing approach was manifested in the short-lived Enhanced Cooperation Program (ECP) in Papua New Guinea. The ECP was a bilateral assistance package initially agreed at the Australia-Papua New Guinea Ministerial Forum in Adelaide in December 2003. It involved substantially increased Australian assistance to policing, other law and justice agencies and border management, as well as economic and public sector management. Australian personnel, drawn from the Australian Federal Police (AFP), other state forces,

and a number of government agencies, were to be placed into inline positions in the RPNGC and other key Papua New Guinea institutions. The policing component, involving up to 230 Australian police officers, was costed at \$A800 million over a five year period and was to be additional to the existing aid program to Papua New Guinea.

The first batch of civilian officials under the ECP was sent to Port Moresby in mid February 2004. However, disagreement between the two governments over conditions of deployment caused lengthy delays in the implementation of the program. Canberra insisted that Australian police and certain other personnel be provided with immunity from prosecution under Papua New Guinea law, while Port Moresby refused to grant blanket immunity. Eventually a compromise was agreed between the two governments. Australian police began arriving in September 2004. Around twenty officers were sent to Bougainville, while others were deployed in stages to Port Moresby. Despite overwhelming public support in PNG for the deployment of Australian police, reservations were expressed by a number of Papua New Guinea leaders. There was also considerable resistance from elements in the RPNGC. In May 2005, Papua New Guinea's Supreme Court delivered its judgement on a constitutional challenge to the immunity provisions under the ECP initiated by Morobe governor and former judge, Luther Wenge. The court ruled unanimously that certain provisions of the enabling legislation, including those dealing with immunity, were unconstitutional (*Papua New Guinea Post-Courier* 19 May 2005). This resulted in the immediate withdrawal of the Australian police personnel although non-police officials deployed under the ECP continued their work. Subsequently, a 'watered down' version of the police component of the ECP commenced implementation in 2006, though, this time, with Australian police advisers rather than inline police officers.

## Conclusion

Papua New Guinea has significant law and order problems. Many of these arise from structural factors and processes whose origins lie well beyond the law and justice sector. Responding to them requires policy interventions across a range of government sectors. Law and order is, in other words, a cross-cutting issue demanding the attention of the entire spectrum of social and economic policy areas. Part of the problem in Papua New Guinea has been the often quite unrealistic expectations of the key law and order agencies. International evidence establishes the important limitations of law and order responses, including policing, in the control of crime and disorder. As Bayley (1994, 10) remarks:

It is generally understood that social conditions outside the control of the police, as well as outside the control of the criminal justice system, determine crime levels in communities.

Ultimately, getting this sector of government to work depends in large part on getting other sectors — notably essential service delivery — working effectively. In addition, the uncritical promotion of conventional deterrence-oriented law enforcement measures detracts from the need to develop appropriate crime and conflict prevention strategies.

Having said that, there is no doubt that the criminal justice system, including the RPNGC, can and should operate much more effectively than it currently does. This requires attention to the particular needs of individual agencies, as well as those of the sector as a whole. It is a major and long-term challenge that, if successful, is likely to consist of incremental improvements rather than any rapid and dramatic transformation. There are no quick-fix solutions. As in many other jurisdictions, policy formulation in this area has regularly been subordinated to the exigencies of immediate responses to crises. There has been a continuous tension between the longer-term perspective needed for capacity-building, policy development and reform, on the one hand, and more pressing short-term law enforcement requirements, on the other. This is where the 'politics of law and order' often serve to accentuate existing problems of lack of capacity. Where progress has occurred, as in recent years, the initiatives have tended to come from law and justice professionals in the relevant agencies, rather than from elected leaders pursuing short-term political agendas. Political leadership is, of course, important and where effective can be a critical factor in progressing reform. It nevertheless remains a two-edged sword.

As we have seen, the law and justice sector is one of the most complicated of government sectors, comprising many different agencies and institutions, each with its own corporate identity, goals and institutional culture. This makes for a particularly challenging policy environment. Given the level of operational interdependency between the various institutional components of the sector, some degree of coordination and cooperation between them is required. The establishment of the NCM in 2003 and gradual adoption of a sector-wide approach are positive developments that should facilitate coordination, though it would be unwise to underestimate the difficulties this presents in practice.

Policing remains a critical challenge in Papua New Guinea and, as documented in the 2004 review, the RPNGC is in urgent need of repair. The fact that the police have been recipients of significant levels of development assistance over many years indicates the enormous difficulties of capacity building in this area. It is neither simple nor something that can be achieved over a short period of time. While it is important to develop new approaches to capacity building, it is equally clear that there is no single or fully adequate strategy. A significant part of the problem with the police, as with other agencies, has been prolonged government neglect and the failure to provide the RPNGC with the resources required to fulfil its duties. Development assistance has traditionally focused on

the provision of training and generally shies away from addressing these more fundamental resource issues on the grounds of sustainability (or lack thereof). Such assistance also appears to work most effectively when there is a stable domestic policy environment and where donor and domestic policy objectives coincide. Problems arise when there are significant differences — real or imagined — between the objectives of donors and domestic authorities. This appears to have contributed to the difficulties of the ECP, which was in large part conceived as part of the Australia's own domestic security agenda.

The tensions between local approaches to dispute resolution that prevail in large parts of Papua New Guinea and the state-centred basis of the modern justice system present additional challenges. They also present opportunities and it is important to move beyond seeing these community-based strategies primarily as an obstacle to the consolidation of the rule of law. The arguments put forward by the Clifford Report remain as valid today as they were when originally proposed over twenty years ago. As we have seen, the current law and justice policy reiterates the need to develop more effective linkages between formal and informal sectors and the establishment of the Community Justice Liaison constitutes a modest step towards this end. The relative success of community-based approaches in a variety of different contexts from Bougainville through to urban settlements provides, at the very least, a case for exploring the potential for more innovative and socially attuned approaches to community security and safety in Papua New Guinea. This is not to understate the real difficulties, including human rights abuses, which can attach to community-based strategies. Nor is it proposed as an alternative to building state capacity. As stated at the outset of this chapter, Papua New Guinea's law and order problems reflect weaknesses in the regulatory capacities of both state and local (non-state) institutions. The long-term challenge is to build both and enhance complementarity between them. State justice needs to be rendered more accessible, accountable, and responsive to local needs, while community justice practices need to be brought into a human rights regulatory framework. Among other things, the successful mobilization of local cultural resources — at little or no cost to the state — will relieve some of the pressure on the over-burdened and extremely costly formal justice system.

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## Endnotes

<sup>1</sup> The estimated population in 2009 stands at over six million people.

<sup>2</sup> Though dated 1983, the report became publicly available in 1984.

<sup>3</sup> The *Inter-Group Fighting Act* of 1977 provided for the establishment of peace and good order committees in each province as the mechanisms for declaring 'fighting zones' under the provisions of the act. In practice, the effectiveness of these committees has varied considerably between different provinces. In some, they meet regularly and play an active role in advising on provincial law and order matters, while in others they have remained largely inactive.

<sup>4</sup> Membership of the NCM comprises the chief justice, police commissioner, commissioner of Correctional Service, chief ombudsman, chief magistrate, attorney general, public solicitor, public prosecutor, and secretary of the National Judicial Staff Service. Further details can be viewed on the Papua New Guinea Law and Justice Sector homepage: <http://www.lawandjustice.gov.pg/www/html/7-homepage.asp>