

SUBMISSION TO THE PARLIAMENTARY FOREIGN RELATIONS STANDING COMMITTEE

This submission will be limited to the RAMSI Law and Justice Program and its relationship to the justice sector and the Ministry of Justice and Legal Affairs.

The Australian Government assistance to the Justice sector commenced in the early 2000s or late 1990s with under a Memorandum of Understanding between the Government of Australia and the Government of Solomon Islands. The Memorandum provided for the establishment of the Solomon Islands Law And Justice Sector Institutional Strengthening Program (SILAJISIP). This program was in existence when the intervention under the auspices of the Facilitation of International Assistance Act 2003 No. 1 of 2003 came to Solomon Islands. This intervention was by the visiting contingent under that Act. The visiting contingent came to be well known as the Regional Assistance Mission to Solomon Islands.

When RAMSI came and dealt with the law and order situation in Solomon Islands, a lot of people were arrested and need to be processed through our courts. The increase in caseloads in the courts prompted the RAMSI to provide additional assistance to the justice sector with the initial recruitment of lawyers and magistrates purportedly under the SILAJISIP program. The offer of additional assistance was accepted by the Government at that time.

Strategic Framework 2005 -2010 Document

In August 2005, the Solomon Islands Government authorized the Ministry of Police, National Security, Justice and Legal Affairs to implement in partnership with the Regional Assistance Mission to Solomon Islands (RAMSI) the Solomon Islands Law and Justice Sector Program. A framework on which the Law and Justice Sector Program would use as its guide to assist the justice sector and the correctional services was developed through a consultation process by a group comprising Australian Government officials and engaged personnel and personnel from the law and justice sector of Solomon Islands government. A strategic Framework document was formulated and later approved and adopted. The document is called the Strategic Framework document 2005 - 2010. This document guided the operation of the RAMSI Law and Justice Program. Under this Strategic framework document, seven strategic objectives were to guide the RAMSI Law and Justice Program in its work with the Solomon Islands Law and Justice sector Program.

The seven objectives are-

- (a) to build justice sector's capacity to plan, budget for and implement the policies, strategies, structures and infrastructure necessary to meet the current and future needs of Solomon Islands.

- (b) To enhance the capacity of the justice sector to consult on, reform and introduce new laws, procedures and practices that reflect contemporary requirements and to support widespread freedom of access by all Solomon Islanders to laws (including statutes, and case law) and legal information.
- (c) To contribute to the creation of safe, stable and prosperous communities through the implementation of collaborative crime reduction, community safety and proactive security initiatives.
- (d) To improve the timeliness, efficiency and effectiveness of civil and criminal court practices and procedures and the operations of government legal services.
- (e) To introduce new diversionary practices, sentencing options and justice sector procedures that support the use of imprisonment as a sentence of last resort
- (f) Within a culturally appropriate corrections system, ensure acceptable standards of prisoner safety and welfare, address recidivism, strengthen the rehabilitative impact of the corrections system and further develop the sector's physical infrastructure to instill community confidence in the security of the corrections service.
- (g) To develop SIPS capacity to build a professional, respected and sustainable corrections service.

The corrections component of the Law and Justice program is generally viewed to be more successful as a modern maximum prison/security facility is being built at Rove. The Solomon Islands Correctional services has also put in place systems and processes to ensure its viability and is moving to strengthen corrections facilities in the provinces and plans are in place to ensure locals are equipped and capable to take over senior positions in the organization from the expatriates holding those positions. The Justice component of the law and Justice program fared well in some of those strategic objectives of the Strategic Objective Framework and not so well in others. The program fared well in the outcomes relating to the rule of law like processing large number of matters through the high Court through its criminal jurisdiction , putting in place key infrastructure in the High Court and Central magistrates Courts, significant Technical Assistance provided to Legal Offices like the DPP and Public Solicitors Office, the High Court and the Central magistrates Court and the Attorney General's Chambers and to the Ministry of Justice and Police with financial, legal policy and strategic planning TAs. However the law and Justice program have not adequately address alternative sentencing options, land issues, civil society engagement and the links between formal and informal justice systems.

The RAMSI Law and Justice Program's management structure is as shown in the attachment to this note marked as "1". As you can see there are no direct linkages between the Ministries and the Law and Justice program. It is envisaged that the Program Director would link to the Permanent Secretaries. There would be two officials under the Program Director, one responsible for the Corrections component and the other for the Justice component. The Law and Justice Program would use Implementing Service providers (ISP) to provide services such as engagement of personnel, support and logistics activities for the RAMSI law and Justice program.

The Law and Justice program is co-located in the Ministry of Police and Ministry of Justice Head offices at the Kalala Building at Town Ground at the present time.

Observations on the RAMSI law and Justice Program

The RAMSI Law and Justice Program through the guidance provided by the Strategic framework 2005 – 2010 provided many assistance to the Ministry of Justice and Legal Affairs including the National Judiciary –

- Support to and the strengthening of the Criminal and Civil justice system to establish confidence in the rule of law including assistance to police, prosecutions, defence and prisons
- Capacity development inclusive of individual and organizational
- Delivery of justice including legal services to the government and people
- Strengthening of the institutions of the legal agencies and the courts, the ministries and infrastructure developments
- Supporting services to access to justice and IT procurements and services.

The assistances provided to the Ministry were given after consultations with the Ministry and agencies. The program then works out what sort of assistance should be provided including the level of assistance required. This is sometimes discussed again with Ministry or agency concerned. At a later stage when the Justice sector Consultative Committee was formed some of the assistance to be provided by the Program is also put to that committee for its endorsement before the Program can proceed to assist.

The assistance provided by the Program is usually provided by the Implementing service Provider (ISP) which is GRM International for other services and assistance rendered or SKM for infrastructure related services. In this arrangements, the Ministry will be informed what activities or programs the Law and Justice program intends to undertake or the Ministry and its agencies would let the program know directly to it or through the ISP what activities or program it wants to undertake and that it requires the programs assistance to do it. After some discussions a project proposal would be drawn up and forwarded to the program for its consideration for funding. Those activities or programs proposed by the Law and Justice program would be drawn up by them and considered by them after some consultations were made with SIG or the Ministry.

This system is not always transparent. The Ministry is not fully aware of the detail resources required to enable those assistances to be provided. Approval of certain level of fundings and certain projects with such levels of costs is done from Canberra. There is no transparency from the ministry's perspective on how those proposals were assessed and how much financial resources are actually being allocated.

Because the strategic Framework 2005 – 2010 document cover a very broad range of objectives, the activities required to be undertaken are also broad and this broad range of activities has it seem stretched resources that may have been allocated. I say "may" as the Ministry is not well involved in the allocation of resources provided by AusAID under

RAMSI. The Ministry is only informed of the total allocation and the general breakdown of spending. It was only from about late 2006 that the Permanent Secretary and the Chief Justice are involved with the program in allocation of financial resources when funding for some of the programs and activities became tight and reductions need to be made and programs or activities need to be scaled back.

The Program's assistance to the Justice sector and the Justice Ministry however, is very much appreciated.

It is now three years since the formulation of the Strategic framework document and since its formulation, there have been three Governments in Solomon Islands. While the policies of those three Governments may be similar as they relate to the law and justice sector, they are also different in some respects and the emphasis may also be different. I think it should also be a time to review the priorities identified in the strategic framework to align them more with current Solomon Islands Government priorities in the law and justice sector. However, having said so, currently the Solomon Islands and RAMSI are working on a partnership framework to guide them in their partnership in the medium term. The framework should identify Solomon Islands Government priorities in the law and justice sector and should form the basis of the work of any future RAMSI law and Justice Program (or what other name or form it may take) in partnership with the Solomon Islands Government.

An aspect of the law and Justice program which I think needs some serious thoughts between RAMSI and the Solomon Islands Government is the **allocation of resources** as well as the **management of the Program**. There need to be more consultation, understanding and agreed prioritizing on the law and justice partnership with the Solomon Islands Government. The discretionary use of the funds by the Program in the first phase of RAMSI may have been based on the evolving nature of the activities and programs undertaken by the law and Justice program which calls for more flexibility on the use of the funds and resources to meet the ever changing needs of the justice sector to meet urgent needs caused by the activities carried out in the restoration of law and order. Now that the law and order situation are becoming more stable, RAMSI and the SIG or the Ministry need to sit and properly map out targeted programs and activities which the Law and Justice Program can assist the Ministry with. Allocation of resources need to be locked into those agreed programs so that activities are carried out and there is certainty in the implementation of proposed programs and activities.

If an SIG/RAMSI partnership framework is to be used as the Framework in the next phase of RAMSI assistance to the Law and Justice sector, the law and Justice Program and the Justice sector need to sit and prioritize the programs or activities to be implemented together. They will need to together agree on the funds to be allocated to the various programs. A bilateral approach may need to be adopted. This should create certainty on the programs and activities to be funded under the Law and Justice program and those that may be taken up by other donor or the Solomon Islands Government.

There is a need to be accountable to the people and Government of Solomon Islands on how much of the aid funds given in their name was spent on what and where and when

the funds are utilized. Currently the decision to allocate funds and how much to a program does not heavily involve the Solomon Islands justice sector or the Ministry of Justice. There is also a need to review the ISP (Implementing Service providers) roles in the Program management structure of the Law and Justice sector. The aim should be to minimize related costs and increase or maximize the outcomes which we want to deliver to ensure people feel and see tangible outcomes delivered through the program through its partnership with the Solomon Islands government justice sector. The management of financial resources by the law and Justice program needs to be more liberalized and more open and transparent including increasing more local justice sector involvement in decision making in the allocation of resources.

There needs to be a shift in the new phase of the RAMSI law and justice program. The focus of the next phase of the program must be more towards facilitating the Solomon Islands justice sector to implement Solomon Islands Government justice agenda.

If we have a more targeted and focused program then we can be able to properly target and address the issues of capacity development, infrastructure development, an empowered local justice system and access to justice for people in the rural and outlying areas of Solomon Islands, areas which the Ministry and the Government consider as the priority areas in the justice sector of Solomon Islands.

James Remobatu
Permanent Secretary
Ministry of Justice and Legal Affairs