

Brown Bag Lunch Seminar

“Legal and Judicial Reform in Asia: AusAID’s Experience”

daniel_rowland@ausaid.gov.au

Summary

Daniel Rowland, AusAID’s senior advisor on legal and judicial reform, described the agency and its work on legal and judicial reform. He began by reading an article about the conflict between state procedures to settle disputes and traditional reconciliation procedures. Police officers had been accused of mutiny in Vanuatu, but the court’s order to arrest them was not executed by the police. To settle the dispute, the people involved in the conflict had exchanged pigs according to a traditional reconciliation procedure.

Since the strengthening of legal institutions is part of AusAID’s work, this example raises several questions.

Is this another example of weak governance, since Australia is surrounded by an arc of instability? What is the role of the police? The existence of different police entities (local police, mobile defense force) has not only an influence within the jurisdiction, but also on the donors whose defense interests might prevail on aid interests. How encourage the counterpart governments to act? How reconcile different approaches of dispute settlement, since customs and traditions do have their place? What about poverty alleviation in such a legal context?

AusAID is an agency responding to the Australian minister for foreign affairs. Since 1996, its policy has been reviewed and focused to Asia and the Pacific. Approaches have been improved by a growing emphasis on governance issues. At present, Australia’s assistance for improved governance focuses on five key aspects: Improved economic and financial management, strengthened law and justice, increased public sector effectiveness, development of civil society and strengthened democratic systems.

In 2002-03, Australia will provide \$ 1.815 billion as ODA, which is 0.25 % of its GNI. Geographically, the distribution is: PNG 19 %, Pacific 9 %, East Asia 26 %, South Asia 6 %, Africa 7 % and multilaterals 33 %.

20 % of this aid is for governance. Of this, 7 % relates to legal and judicial development, 24 % to civil society and human rights, and 35 % to public sector reform.

In PNG, AusAID promotes good governance by building capacity and strengthening law and Justice institutions. It assists the Ombudsman Commission to improve accountability and carries through projects with the Constabulary and the Department of Correctional Services. In the Pacific, AusAID has individual projects in different countries to develop

effective policy, legislative and administrative frameworks. In Asia, however, there is a variety of projects that do not have the same consistence as in PNG and the Pacific every jurisdiction being quite different.

An efficient legal and judicial system has an influence on poverty reduction, but the evaluation of the impact of legal and judicial reform has to take into account that this is a long term process. In recent years, AusAID has shown its willingness to look at new approaches. In PNG, a Judicial Advisory Group (JAG) has been created to act sectorwide and no longer agency by agency, since AusAid has adopted a more horizontal view. In addition, the projects are now managed at post level.

Challenges for the present and the future are the definition of performance indicators for legal and judicial development, to obtain the commitment of counterpart governments to spend a certain percentage of the budget for Justice and to strengthen civil society in developing countries.