

INTEGRATING REFORM:
LEGISLATIVE NEEDS ASSESSMENT
REPUBLIC OF VANUATU
UNITED NATIONS DEVELOPMENT PROGRAMME

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ABBREVIATIONS

CEDAW	Conv. Elimination of Discrimination Against Women
CRC	Conv. Rights of the Child
DWA	Dept. of Women's Affairs
FPB	Family Protection Bill
FIB	Foreign Investment Board
Malampa Province	Malakula Ambrym Paama Province
MPP	Melanesian Progressif Pati
NUP	Nasonel Unaeted Pati
PAC	Public Accounts Committee
Shefa Province	Shepherds and Efate Province
SLO	State Law Office
Tafea Province	Tanna, Aniwa, Futuna, Erromango, Aneityum Prov.
Torba Province	Torres and Banks Province
UK DFID	UK Department for International Development
UMP	Union Moderet Pati
USP-Emalus	University of the South Pacific, Emalus Campus
VANGO	Vanuatu Assoc. of non-Government Organizations
VEC	Vanuatu Electoral Commission
VNCW	Vanuatu National Council of Women
VWC	Vanuatu Women's Centre
VP	Vanua'aku Pati
VNPF	Vanuatu National Provident Fund
vt	Vanuatu Vatu (Currency)
WSB	Wan Smol Bag Theatre

EXECUTIVE SUMMARY

Good governance relies on effective institutions and laws to ensure that adequate frameworks are in place to facilitate good governance. Prime Minister Edward Nipake Natapei noted during his time as Speaker of Parliament that the “effectiveness of parliament depends to a large extent on the effectiveness of its members” (Natapei, *Republic of Vanuatu Parliamentary Handbook* 1999: 7). To this end the Comprehensive Reform Program (CRP) was initiated in 1997 to “overcome this crisis (and) restore the separation of powers which the Constitution created; and to ensure that the various institutions of governance have the powers and the capabilities to fulfil their intended roles” (*Comprehensive Reform Programme*, 1997: 5). Under its auspices legislation has been enacted to strengthen the Leadership Code contained in the Constitution, the Office of the Ombudsman and the role of the Executive. A report was prepared by Mary Harris, Clerk Assistant (Select Committees) from the Office of the Clerk of the House of Representatives, New Zealand, and funded by the New Zealand Overseas Development Agency on strengthening the role of parliament. It was presented to Vanuatu’s Department of Strategic Management and the Council of Ministers in October 2000, but has not yet been acted upon. Both the Vanuatu Governance and Accountability Project (VANWIP Component), sponsored by ESCAP, and Margaret Shields, QSO Social Policy Consultant, have conducted training for Members of Parliament. Shields also produced an English language training manual and booklet to support the workshop. Four years after the promulgation of the CRP, and despite these programmes, the crisis continues. The current Legislative Needs Assessment duplicates many of the key areas for reform contained in that report.

Ultimate responsibility for good governance lies with the Parliament, the Council of Ministers and the Prime Minister as head of government. In terms of its role as an oversight organisation, which ensures the proper financial management of the government and the major source for the enactment of legislation for Vanuatu, the national Parliament plays an important role in ensuring that the government adopts best practice for good governance and implements the Forum’s “Eight Principles of Accountability”. It does not currently fulfil this role.

The National Parliament of Vanuatu is unable to fulfil its responsibilities, particularly with regard to its duty as an oversight body, because:

- ✍ The Executive dominates the Legislature;
- ✍ Human resources, within the Office of the Clerk of Parliament, the Office of the Speaker and the within departments of the government of Vanuatu generally, are under-developed, especially in legal, research and financial areas;
- ✍ The content and implications of legislation are not well understood by Members of Parliament;
- ✍ No legal or technical secretariat is available to non-government Members.
- ✍ Access to information regarding and knowledge of procedures of Parliament and the political system generally is limited;
- ✍ Where they have been enacted already, these procedures are not adhered to;

- ✍ Little differentiation is made between the role of the Constitution, Acts of Parliament, Government Regulations and the Standing Order.
- ✍ Members are not able to liaise effectively with their constituents in a timely and regular manner;
- ✍ Women are under-represented in the National Parliament are not adequately advocated for. (There are no women Members of Parliament);
- ✍ Recommendations contained in existing reports on and training exercises for parliament have not been adopted.

RECOMMENDATIONS

The following recommendations are based on an appraisal of the existing legal documents, parliament-constituency relations, the law-making procedures of the National Parliament, its oversight capacities and human resource constraints. It is also based on a review of women's participation and representation in the National Parliament, and in Vanuatu generally, and takes into account previous consultancies, training programmes and initiatives aimed at strengthening the role of the National Parliament.

These recommendations are founded on the notion that future reforms should focus on strengthening already enacted legislation and infrastructure reforms and support those developments organic to Vanuatu.

THE CONSTITUTION

- ✍ Constitutional change to stabilise governments should be considered, but constitutional safeguards will still be required to remove incompetent or malevolent regimes
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THE STANDING ORDERS

- ✍ That Standing Orders (s.12 (1) be amended to increase the number or duration of ordinary parliamentary sessions each year.
- ✍ That Standing Orders (s.32-37) be amended to entrench components to ensure the proper scrutiny of the Executive's policy and practice.
- ✍ Provision be made in the Standing Orders to enable the Speaker to be censured.
- ✍ Bills to include an explanatory note in Bislama.
- ✍ Explanatory notes to be disseminated as part of the notification process.
- ✍ Standing Orders be altered to ensure a longer period between the first and second readings to ensure greater time to consider Bills.
- ✍ Committees be empowered to call for public submissions, hear evidence in public, hear evidence in private and travel to hear evidence.
- ✍ That a committee be empowered to examine all regulations and orders promulgated and receives complaints about the operation of regulations or orders.
- ✍ Consider amending Standing Orders to bring the Office of the Clerk of Parliament under the Office of the Speaker of Parliament (See 2.5 Assessment of Existing Human Resources Constraints).
- ✍ Enact as a discrete Act of Parliament guidelines for the Public Accounts Committee (See 2.4.5 The Public Accounts Committee)

- ✍ Assure compliance during elections with existing laws relating to the Representation of the People Act.
- ✍ Support ongoing voter education (See 2.7.4 Wan Smol Bag Theatre Group).
- ✍ Assure compliance with existing laws relating to the Leadership Code.
- ✍ Strengthen the Office of the Ombudsman to ensure compliance with the Leadership Code; and/or,
- ✍ Consider the formation of a Leadership Code Commission to ensure compliance with the Leadership Code.
- ✍ Assure compliance with the existing laws relating to the performance of the Executive.

ASSESSMENT OF EXISTING PARLIAMENT-CONSTITUENCY RELATIONS

- ✍ Production of a current affairs radio program in Bislama detailing the meaning and ramification of Bills.
- ✍ Publication of explanatory notes for Bills in Bislama before parliament is called; and,
- ✍ Amendment of Standing Orders to allow for their dissemination as part of the notification process.
- ✍ Enactment of legislation to regulate the dispensation of MP Allocations.

THE ELECTORAL PROCESSES

- ✍ Support greater public education on the role and importance of elections, in appropriate formats for non-literate audiences.
- ✍ Support curriculum development for schools on the electoral process.

THE SEPARATION OF POWERS

- ✍ The Supreme Court should receive the support necessary to continue this process.
- ✍ The priorities for support programs should be developed in concert with the Supreme Court.

THE ROLE OF CIVIL SOCIETY ORGANISATIONS

- ✍ Support be given to peak bodies to ensure that they are able to represent their respective stakeholders.
- ✍ Community consultation be managed through peak CSOs.
- ✍ Need to coordinate government and CSO cooperation to include CSO support for government initiatives and allow for independent organisations to criticise policy deficiencies.

THE ROLE OF THE MEDIA

- ✍ Support the production of current affairs broadcasts on the meaning and ramification of government Bills prior to the commencement of parliamentary session and provide updates throughout the sitting.
- ✍ Stagger the timing of such broadcasts to allow for conflicts between work schedules and parliamentary sessions.

LOCAL GOVERNANCE

- ✍ Utilize provincial councils to disseminate legislation.
- ✍ Empower provincial governments to consider relevant non-urgent legislation.

LEGISLATIVE PROCESSES

- ✍ That Standing Orders and the Constitution be amended to allow non-urgent Bills to be disseminated to Provincial Councils as part of the consultation process.
- ✍ That government departments be supported through training and mentoring to foster expertise in the generation of explanatory notes to their ministers, which are to be provided in Bislama.
- ✍ That Standing Orders be amended to allow for a greater period of time between the First and Second Reading of Bills before the house.
- ✍ That an impartial secretariat be established as part of the Office of the Parliament to provide legal advice and assistance to facilitate the drafting of Private Members Bills.

ASSESSMENT OF THE OVERSIGHT ROLE OF THE NATIONAL PARLIAMENT.

- ✍ The dissemination of information in a manual, which is readily accessible to Members, preferably in Bislama.
- ✍ Encourage the involvement of backbenchers in parliamentary processes.
- ✍ Support ongoing training conducted in Bislama for Members of Parliament in parliamentary procedure.
- ✍ Encourage ministries to provide secretariat services to the Minister.
- ✍ That the capacity of new Members be strengthened through training programs on the role and duties of parliamentarians.
- ✍ That new members be trained in parliamentary procedure to understand and best use written and oral questions, general debate and points of order.
- ✍ That independent parliamentary secretariat services be made available to members.
- ✍ That secretariat services include a technical component provided by the relevant ministry; and,

- ✍ That secretariat services include an independent legal component to ensure compliance with existing legislation and the Constitution.
- ✍ That amendments be made to Standing Orders to require Oral Questions to be put on notice; or,
- ✍ That amendments be made to Standing Orders to establish and enforce time limits for ministerial response.

THE OPPOSITION

- ✍ That shadow ministries be formalised.
- ✍ That consideration be given to providing support for a Leader of the Opposition's Office.
- ✍ That Standing Orders be amended to establish guidelines for the constituting the Leader of the Opposition.

AUDITOR GENERAL

- ✍ That the recruitment of an auditor to take-over the responsibilities of the Auditor General to the Public Accounts Committee be conducted.
- ✍ Strengthen the cycle of accountability by supporting the timely and effective reporting mechanisms within government departments.

STANDING COMMITTEES

- ✍ Bring delegated legislation within the ambit of parliamentary scrutiny; and to facilitate this,
- ✍ Consider the reorganisation of the Standing Orders Review Committee to include review of government regulations.

PUBLIC ACCOUNTS COMMITTEE

- ✍ That compliance with the existing elements of the Act be enforced;
- ✍ Parliament must be able to investigate the expenditure of public funds in the most recent years;
- ✍ That compliance with the principle Expenditure Review and Audit Act be enforced;
- ✍ Training in facilitation and management training for committee chairpersons;
- ✍ That the Public Accounts Committee be strengthened by legislation making Ministers and Government Departments answerable to the Public Accounts Committee;
- ✍ That the individual capacity of PAC members be strengthened by training in Fiscal Policy;

- ✍ Secretariat services be made available to the Public Accounts Committee to support their activities, especially to:
- ✍ Provide technical assistance to the Public Accounts Committee on fiscal matters; and,
- ✍ Provide independent legal support.
- ✍ It is of utmost importance for the successful operation of the Public Accounts Committee that it is able to investigate the current use of public funds and hold users to account in the present;
- ✍ The PAC must be able to oversight Appropriation Bills prior to their passage through the House;
- ✍ Consider departmental expenditure estimates to review the performance of ministries;
- ✍ That the Public Accounts Committee make mid-term evaluations on government expenditure;
- ✍ That the procedures proposed for the Public Accounts Committee be adopted by Act of Parliament (See Appendix D).

INTER OVERSIGHT ORGANISATION MESHING

- ✍ That statutory bodies such as a Law Reform Commission, a Leadership Commission and a Language Commission be created to bolster the work of the Ombudsman as an oversight agency.
- ✍ Support legal sector strengthening.

ASSESSMENT OF THE EXISTING HUMAN RESOURCES CONSTRAINTS

- ✍ Train new Members in the roles and duties of parliamentarians (Preferably by a niVanuatu or Bislama-fluent educator).
- ✍ Develop country specific curriculum for training new Members, pursuant to the Forum's Eight Principles of Accountability.
- ✍ Foster greater understanding of the Constitution, Acts of Parliament, and Standing Orders, and the different bases and functions of each.
- ✍ Facilitate networks for professional exchange between officers of the Vanuatu parliament and other small regional legislatures, including Territorial governments in Australia.
- ✍ Private Members' Bills to be examined by a parliamentary legal secretariat to ensure compliance with existing legislation and the constitution.

OFFICE OF THE SPEAKER

- ✍ The offices of the Speaker and the Clerk should be merged to reflect the position of the Speaker as parliamentarian as responsible for the parliamentary chambers.

- ✍ That the deputy speakers take responsibility to oversight certain functions of the parliament.

OFFICE OF THE CLERK OF PARLIAMENT

- ✍ That as a matter of urgency Minutes of Parliament after 1992 be presented to parliament and passed.
- ✍ That Hansards Bislama be provided.
- ✍ That the Librarian should be made a permanent employee.
- ✍ That staff of the Office of the Clerk be provided training in computer skills, typing skills, office management and Internet use.

THE PARLIAMENTARY LIBRARY

- ✍ That the Parliamentary librarian should be made a permanent employee.
- ✍ That an exchange programme be put in place between USP Library and the parliamentary library to provide professional support for the Parliamentary Librarian;
- ✍ Support the preparation of a Compendium of Laws for 1988 onwards for presentation to the Parliamentary Library.
- ✍ Support the provision of a computer to the parliamentary library; and,
- ✍ Support training for the parliamentary librarian in the use of computer cataloguing.

2.6 REVIEW OF WOMEN'S REPRESENTATION AND PARTICIPATION.

- ✍ That a progress report on compliance with the CEDAW Protocols be undertaken as a milestone achievement in strengthening the position of women in Vanuatu.
- ✍ That, as a matter of urgency, the Family Protection Bill be presented to Parliament for consideration.
- ✍ That continuing political literacy programmes be run for women.
- ✍ That the VNCW's regional outreach programmes be supported.
- ✍ That women's advocacy organisations continue to play a role in steering committees for good governance.

2.7 ISSUES ARISING FROM PREVIOUS TRAINING INITIATIVES AND CONSULTATIONS

- ✍ That training programmes be conducted outside of parliamentary session.
- ✍ That training for parliamentarians be conducted in Bislama, or in parallel French and English streams.

- ✍ That curriculum development for training modules include input from niVanuatu stakeholders, including former members of parliament, bureaucrats and lawyers.
- ✍ That outreach programmes in support of electoral processes and legal literacy conducted by civil society organisations be supported.

1. INTRODUCTION

This report provides background information and a comprehensive needs assessment of the National Parliament of Vanuatu in order to provide the basis for future support programs for the National Parliament in Vanuatu. In addition, the report will assist in the generation of key principles of best practice for Pacific legislatures based on notions of Parliamentary democracy, participation, equity, accountability, transparency, efficiency, representation and fair elections. The report is divided in two sections, not including appendices:

- ✍ Section one provides an overview of the context in which the report was researched and written, and provides background information on Vanuatu and its political system; and,
- ✍ Section two details the specific findings of this report and offers recommendations for capacity strengthening as established in the Terms of Reference for the mission.

The attached appendices are:

- ✍ The Mission Terms of Reference;
- ✍ The consultation programme undertaken;
- ✍ The ruling of the Supreme Court, 6 April 2001;
- ✍ The recommendations of the Harris Report regarding the Public Accounts Committee; and,
- ✍ The Consultant's personal details.

1.1 CONTEXT OF THE VISIT

During the course of consultations a constitutional crisis ensued which resulted in a change of government. During April three rulings of the Speaker of Parliament, Hon. Paul Ren Tari, were overturned by the Supreme Court, which sparked intense debate regarding the Separation of Powers (For example see Appendix C). The deposed Speaker claimed that the Supreme Court was interfering in Parliament's jurisdiction. Because of his conduct during the crisis Tari has been found in contempt of court and, with his two deputy speakers, is facing sedition charges.

In this environment several key interlocutors were unavailable and the mission took longer than anticipated. No programme had been prepared prior to my arrival, although this was quickly rectified through the work of Kelma Ishmael, Secretary to the Speaker of Parliament. The Office of the Speaker of Parliament and the Office of the Clerk of Parliament facilitated access to secondary information, although some materials were unavailable. The mission was completed in 14 days.

1.2 BACKGROUND

The Republic of Vanuatu is composed of 65 inhabited islands comprising a y-shaped archipelago. It shares sea-borders with the Solomon Islands, New Caledonia and Fiji.

At the time of the 1999 Census the population was 186,678. Of this number 78.5% (146,542) lived in rural areas. The sex ratio of females to males was 100:106. Vanuatu's growth rate is 2.6%, but in urban areas is 4.2%. Between 1989 and 1999 Vanuatu's urban population grew from 25,870 to 40,094.

The national languages of Vanuatu are English, French and Bislama (Vanuatu's neo-Melanesian variant).

Vanuatu became independent 30 July 1980. From 1906 until 1980 the United Kingdom and France jointly administered the islands as the Anglo-French Condominium of the New Hebrides. Under this system, the French and British National Administrations made laws for their respective nationals and optants and were jointly responsible, through the Joint Administration, for indigenous New Hebrideans and all other residents.

The New Hebrides was subject to British and French Acts of Parliament and subsidiary legislation (which related to the administration of overseas territories), certain English rules of Common Law and equity where deemed appropriate to local circumstances, Queen's Regulations made by the High Commissioner for the Western Pacific and the British Resident Commissioner and regulations made by the French High Commissioner in Noumea.

In 1957 the Joint Administration enacted the Native Local Administration Joint Regulation, which established a system of local councils and a national Advisory Council, which included indigenous representation. In 1975 the predominantly niVanuatu National Representative Assembly (NRA) replaced this system. After 1977, resolutions passed by the Assembly were, subject to the approval of the Resident Commissioners, enacted as Joint Regulations.

Independence was granted 30 July 1980. From that time until 1991, the nationalist Vanua'aku Pati held power with an almost two-thirds majority. Between 1987 and the present the major political parties fragmented creating an environment of endemic instability. Since 1991 the government has changed several times, primarily brought about by shifting alliances within the House. There are currently eight parties represented in Parliament⁺.

The constitution was drafted in 1979 after extensive in-country consultation and enacted in 1980 through an exchange of notes between the British and French Governments. The laws of Vanuatu currently consist of the *Constitution of Vanuatu*, Acts of Parliament of Vanuatu, Joint Regulations in existence on 30 July 1980, which continue in force until repealed by the Parliament (s. 95 (1) *Constitution*), British and French Laws in existence on 30 July 1980 which continue until repealed by the National Parliament (s. 95 (2) *Constitution*), and the customary laws of Vanuatu (s. 95 (1) *Constitution*).

Vanuatu is a member both of the Commonwealth of Nations and several associations of Francophone countries, including the Agence de Cooperation Culturel et Technique (ACCT).

1.3 FORM OF GOVERNMENT

Vanuatu's government system is modified from the Westminster system, although it includes certain components of French origin. The Legislature consists of a unicameral Parliament, which is elected every four years. Vanuatu has a unicameral legislature containing 52 seats. The national

⁺ Vanua'aku Pati (19 seats), Nasonel Unaeted Pati (13), Union Moderet Pati (8), Melanesian Progressive Pati (4), Grin Pati (2), Jon Frum (2), Vanuatu Republikan Pati (2), Fren Melanesia Pati (2).

parliament consists of members elected on the basis of universal suffrage through an electoral system, which includes elements of proportional representation to ensure fair representation of different political groups and opinions (s. 17 (1) *Constitution*). This takes the form of multi-member constituencies, which may vary in size depending upon the make-up of each electorate.

Vanuatu has a unicameral Legislature containing 52 seats. The National Parliament consists of members elected on the basis of universal suffrage through an electoral system, which includes elements of proportional representation to ensure fair representation of different political groups and opinions (s. 17 (1) *Constitution*). This takes the form of multi-member constituencies, which may vary in size depending upon the make-up of each electorate. Since 1980 the number of seats in parliament has been raised from 39 to 52.

Under the Constitution legislation, minutes of Parliament and government reports must be produced in French and English. This has created significant delays to the cycle of government. Parliamentary debate is conducted in Bislama.

The Head of State is the President, who is elected every five years. Whenever the President is incapacitated, the Speaker of Parliament acts as President (s. 37 (1&2) *Constitution*). The President is elected by secret ballot by an Electoral College, consisting of Parliament and the Presidents of the Provincial Governments. Any niVanuatu qualified for election to Parliament may be elected to the Presidency.

The Executive consists of the Prime Minister and the Council of Ministers. The Prime Minister is elected by the Parliament, which allows the leaders of minority parties to attain the position of Head of Government. The Speaker, the First Deputy Speaker and the Second Deputy Speaker are also elected by Parliament. The Speaker may not hold a government portfolio. The number of Ministers including the Prime Minister shall not exceed a quarter of the number of members of Parliament (s. 40 (2) *Constitution*). The Prime Minister selects ministers and has the right to dismiss them. Ministers maintain their positions as Members of Parliament.

The Judiciary is independent, 'subject only to the Constitution and the law' (s. 47 (1) *Constitution*). Only the Judiciary has the right to 'resolve proceedings according to law' (*ibid.*). Proceedings of the Supreme Court are heard and disposed of before a Judge of the Supreme Court sitting alone.

Vanuatu is divided between six provinces, each of which is sub-divided by area councils. The Decentralisation Review Committee is examining the current structure with a view to streamlining its structures and making it more relevant for grass-roots stakeholders. The current provinces are: Shefa - the Shepherds Group and Efate; Torba - Torres and Banks Islands; Malampa – Malekula, Ambrym, Paama; Sanma – Santo and Malo; Penama – Pentecost, Ambae, Maewo; and, Tafea – Tanna, Aniwa, Futuna, Erromango, Aneityum.

The capital Port Vila is in Shefa province.

1.4 THE PARLIAMENT HOUSE

Parliament House currently houses the offices of the Speaker of Parliament, the Office of the Clerk of Parliament, the Parliamentary Library, four conference rooms and offices for Parliamentarians. The State Law Office occupies an office in the Parliament House during Parliamentary Session. Several offices are unused. There is room within parliament to provide for more office space for parliamentary support services and other necessary offices.

There are 52 seats in the public gallery, of which 15 are by convention set aside for representatives of foreign missions and government departments. Public interest in Parliamentary sessions is limited. Political supporters and staff members generally occupy spare seats in the public gallery. Because of the size of the public gallery, public access to parliamentary debates must be facilitated by dissemination in the media and through the agency of Members.

2 AREAS FOR INSTITUTIONAL AND CAPACITY STRENGTHENING

2.1 REVIEW OF EXISTING KEY LEGAL DOCUMENTS

The key legal documents relating to the role of the National Parliament, including the Executive, are the Constitution, the Standing Orders of Parliament, the Representation of the People Act (and Amendments), the Leadership Code Act (and Amendments) and the Government Act.

The basic legislative mechanisms of good governance are already in place. However, knowledge amongst Members and the wider public of the Acts of Parliament, the Constitution, the Standing Orders and other regulations is not strong. Their varying duties and jurisdictions are not recognized.

2.1.1 THE CONSTITUTION

Amendments to the Constitution, the foundational law of Vanuatu's independence, should be considered only as a last resort. A Constitutional Review Committee has been mooted to consider possible amendments based on in-country consultations with national stakeholders, but has not as yet been convened. It is not the intention of this report to pre-empt the findings of this proposed commission.

The Constitution is more widely known in Vanuatu than any Act of Parliament. It is often referred to as the true law (or mother law), despite the enactment of several pieces of legislation, which give form and weight to constitutional provisions, such as the Leadership Code and the Government Act or which alter provisions of the Constitution¹.

The Harris Report (p. 28) suggests amending the Constitution to clarify the appointment and independence of the Auditor-General's Office and the Ombudsman's Office, to reinforce the separation of powers (especially regarding the power of the Judiciary to return laws it considers inconsistent with the Constitution to the Legislature for further consideration), limiting the opportunity for the dissolution of Parliament and determining whether the requirement of parliament to make decisions by public vote would also apply to the decisions of committees.

Amendments to the Constitution regarding issues of the parliamentary system, the electoral system and the status of English, French and Bislama may come into effect *only* by national referenda. Of major concern is instability within the House. Constitutional change to stabilise governments should be considered, but constitutional safeguards will still be required to remove incompetent or malfeasant regimes.

- ✍ Constitutional change to stabilise governments should be considered, but constitutional safeguards will still be required to remove incompetent or malfeasant regimes.

¹ Act 10 of 1980; Act 15 of 1981; and, Act 20 of 1983.

2.1.2 THE STANDING ORDERS OF PARLIAMENT.

The Standing Orders of Parliament came into effect 13 January 1982. They are largely unchanged from those of the National Representative Assembly, which operated between 1977 and 1979. In general the Standing Orders contain sufficient regulations for parliament, although certain areas require amendment.

The events culminating in the arrest on sedition charges of the former Speaker indicate the need to clarify the Standing Orders relating to the role of the Speaker of Parliament. Provisions are made for the Prime Minister and individual members to be removed or censured for contravening Standing Orders. Decisions of the Speaker relating to Standing Orders may be challenged only by written motion. Amendments could be made to clarify the role of the Speaker and outline the punishments for an office bearer's failure to comply with Standing Orders.

Under Standing Orders (s.49 (1-5) Standing Committees may be constituted in order to 'examine, enquire or consider any business, question or matter related to a ministry, department or service of the government or the Republic of Vanuatu', but the existing standing committees are not specified. For example, guidelines for the Public Accounts Committee, which were passed as an Act of Parliament², could be included in amended Standing Orders. Members are generally unsure of the exact content of legislation. The inclusion of the provisions of such legislation in Standing Orders would clarify the role and powers of Standing Committee. However, their adoption as a discrete Act of Parliament would be sufficient.

Basic tools of executive oversight are included in the Standing Orders but not utilised to their fullest potential. Written questions, oral questions and general debate should be used to fully interrogate government policy and performance, but are more routinely utilised to clarify points of policy constituency. Parliament meets twice a year in ordinary session. Not more the 21 days following an general election, nor less than ten days prior to the proposed date of sitting, the Clerk shall notify the members of Parliament of the first sitting of Parliament (s.2, *Standing Orders*). Unless otherwise specified the Parliament sits between the hours of 0830 hours and 1130 hours and 1400 hours and 1700 hours. If a vote is being taken at the appointed time for the interruption of business, Standing Orders requires that the interruption be deferred until the vote is finished (s.16 (1). Members may move without notice that Parliament sit outside the allotted sitting times without debate or amendment (s.16 (2) *Standing Orders*).

Parliament may meet in extraordinary session at the request of the majority of its members, the Speaker or the Prime Minister. Under Standing Orders 7 days notice is required for extraordinary sessions of Parliament. Business transacted during extraordinary sessions is limited to that referred to in the initial request for extraordinary session (s.14 (3) *Standing Orders*).

Parliament is routinely closed prior to the completion of business. Unless required to do so by Court Order, it is rare for parliament to sit outside of its standard operating hours, as established in the Standing Orders. Entrenching a formalised schedule in the Standing Orders and increasing the duration of ordinary session may be necessary to ensure that both policy and performance of the Executive are scrutinized.

The oversight provisions in the Standing Orders are often under-utilized. Both written questions and oral questions should be utilised to examine government performance. Questions should be

² The Expenditure Review and Audit Act No. 3 of 1998; The Expenditure Review and Audit Act (amendment) No. 36 of 2000.

utilized by the chairman of the Public Accounts Committee to track government follow-up on Committee reports (See 2.4.5 The Public Accounts Committee). Oral questions do not require notice and are often directed towards policy consistency issues, information on which a minister may not have to hand (although should be able to provide some comment). No mention is made of time limitations or the requirement of Members to respond. Consideration should be given to amending Standing Orders to require Oral Questions to be put on notice or have an in built time limit for Members' response.

Comprehension of legislation amongst members, especially concerning technical aspects of complex legislation, is routinely poor. Government departments should be encouraged and supported to provide detailed explanatory notes in Bislama and other secretariat duties for ministers (See 2.3.2 Legislative Processes). These could then be disseminated as part of the notification process for Bills to rural members. Currently legislation is passed rapidly through the Parliament, which has resulted in legislation of poor quality. Subsequent amendments and repeals have been expensive and time-consuming. Standing Orders should be altered to enforce a longer break between the first and second readings of Bills to facilitate greater understanding of legislation.

The Standing Orders could be amended in the following ways:

- ✍ That Standing Orders (s.12 (1) be amended to increase the number or duration of ordinary parliamentary sessions each year.
- ✍ That Standing Orders (s.32-37) be amended to entrench components to ensure the proper scrutiny of the Executive's policy and practice.
- ✍ Provision be made in the Standing Orders to enable the Speaker to be censured.
- ✍ Bills to include an explanatory note in Bislama.
- ✍ Explanatory notes to be disseminated as part of the notification process.
- ✍ Standing Orders be altered to ensure a longer period between the first and second readings to ensure greater time to consider Bills.
- ✍ Committees be empowered to call for public submissions, hear evidence in public, hear evidence in private and travel to hear evidence.
- ✍ That a committee be empowered to examine all regulations and orders promulgated and receives complaints about the operation of regulations or orders.
- ✍ Consider amending Standing Orders to bring the Office of the Clerk of Parliament under the Office of the Speaker of Parliament (See 2.5 Assessment of Existing Human Resources Constraints).
- ✍ Enact as a discrete Act of Parliament guidelines for the Public Accounts Committee (See 2.4.5 The Public Accounts Committee).

2.1.3 THE REPRESENTATION OF THE PEOPLE ACT (AMENDED) NO. 1 OF 1987.

While Vanuatu possesses complex legislation regarding elections, elections are undermined by the crisis of confidence in the processes involved in constituting the national parliament (See 2.2.1 the Electoral Process). Complex legislation already exists to regulate elections, but elections do not always comply with the Act.

Elections are the keystone process by which parliaments are constituted and therefore integral to the oversight processes of the parliament.

- ✍ Assure compliance during elections with existing laws relating to the Representation of the People Act.
- ✍ Support ongoing voter education (See 2.7.4 Wan Smol Bag Theatre Group).

2.1.4 THE LEADERSHIP CODE NO. 2 OF 1998.

The Leadership Code Act was introduced as part of the Comprehensive Reform Programme to give effect to Article 10 of the Constitution, which establishes a Leadership Code. The Act and its subsequent amendments provide strict regulations to both elected and appointed leaders on the requirements of office. It requires the declaration of interests of public officers, establishes strict guidelines for behaviour in office and establishes punishments for offences against the Act. It also relates to the receiving of gifts, the role of custom chiefs and the application of the leadership to government. The effectiveness of the Leadership Code is undermined by the comparative weakness of legal offices within Vanuatu and their difficulty prosecuting offences against the Act.

- ✍ Assure compliance with existing laws relating to the Leadership Code.
- ✍ Strengthen the Office of the Ombudsman to ensure compliance with the Leadership Code; or,
- ✍ Consider the formation of a Leadership Code Commission to ensure compliance with the Leadership Code.

2.1.5 THE GOVERNMENT ACT NO. 5 OF 1998

The Government Act was also introduced in line with the Comprehensive Reform Programme and is designed to give effect and shape to Article 7 of the Constitution, which relates to the form of the executive. The Act provides for the role of government, the effective management and responsibilities of the executive. Furthermore, it provides guidelines for the appointment of political advisors.

- ✍ Assure compliance with the existing laws relating to the performance of the Executive.

2.2 ASSESSMENT OF EXISTING PARLIAMENT-CONSTITUENCY RELATIONS

Parliament-constituency relations exist in two forms: the relationship between individual members of parliament and their respective constituencies; and, the generic relationship between the people and the legislature. While people are generally interested in the operation of Parliament, understanding of its law-making and oversight duties is limited. Grass-roots

stakeholders make little differentiation between the executive, the bureaucracy and the legislature.

The relationship between the parliament and the people is typified by a crisis of confidence, brought on by poor government performance and an increasingly unstable Parliament. The electoral process is considered futile for 'grass-roots' niVanuatu. Increasing anger regarding the implication of Members of Parliament in maladministration, corruption and conduct unbecoming national leaders has influenced voters away from elections (See 2.2.1 the Electoral Process). Grass-roots niVanuatu are at risk of becoming disenfranchised and marginalized politically because of their reluctance to engage with state agencies and processes and because of the inability of governments to deliver on development promises.

The Constitution states that 'Unless otherwise provided proceedings of parliament shall be held in public (s.24)'. The parliament is notionally open to the public, but the limited number of seats generally means that public observance of parliament is limited to political supporters, representatives of foreign missions and journalists. The proceedings of parliament are broadcast via Radio Vanuatu and reported on in the print media. Urban talkback radio programmes routinely deal with issues arising from parliamentary politics and proposed legislation. The impact of the media is limited by poor literacy levels and limited access to radio in certain areas. In rural areas radio broadcasts may clash with agricultural working hours, thereby marginalizing significant sections of the electorate.

Members of Parliament are the most direct means by which rural constituencies receive information on developments of national significance. Members' capacity to disseminate information is predicated on his or her own understanding of Bills and the receipt of those Bills from the Office of the Clerk of Parliament. The current practice is *not* to forward Bills to rural members because of difficulties of transmission. Several Members no longer reside in their electorates, which further diminishes the knowledge and understanding of developments in the national capital in rural areas. Members may only notify rural constituents of Bills that are directly relevant to rural constituencies. Areas outside of the footprint of newspapers and radio broadcasts are not generally aware of the details and ramifications of national policy. The increasing detachment of Members from their villages and their respective expatriate island communities in urban areas further detaches grass-roots stakeholders from the process.

Constituency support is of major importance to the selection of candidates and to this end they remain linked to their constituencies through the MP Allocation. MP Allocations were originally a discretionary fund of the Office of Prime Minister, but dissatisfaction in the House influenced its dispersal between all Members of Parliament. These now constitute a major source of development revenue for rural islanders. National projects are directed to the relevant ministries, but local funding requests are made to individual Members, funded by the MP Allocation. MP allocation is vt 1.2 million, but was this year reduced to vt 421,000 on the discretion of the Clerk of Parliament due to fiscal limitations. There are no laws covering MP allocations, although citizens are empowered to complain to the Ombudsman on the dispensation of funds from MP Allocations, if these are believed to be in contravention of, for example, the Representation of the People Act (and Amendments) 1983³. The lack of legislation regarding MP allocations allowed them to be curtailed by the Office of the Clerk for 2001. In an environment in which government policies may be derailed or under-funded, the MP Allocation serves to tie communities to their representatives directly rather than to the executive or the state. Despite

³ In 1998 the first public complaint on electoral fraud was brought before the Supreme Court.

the immediate material gain, rural constituents are increasingly cognizant that this is not adequate. There are no transparent, long-term benefits. Rural constituents critique the MP allocation on the grounds that it is only a “sweetener”, and that once the election is passed their Member neglect the electorate until next needed.

- ✍ Production of a current affairs radio program in Bislama detailing the meaning and ramification of Bills.
- ✍ Publication of explanatory notes for Bills in Bislama before parliament is called; and,
- ✍ Amendment of Standing Orders to allow for their dissemination as part of the notification process.
- ✍ Enactment of legislation to regulate the dispensation of MP Allocations.

2.2.1 THE ELECTORAL PROCESS

There is a current acknowledged crisis of confidence in the government and the processes through which the Parliament is constituted. Electoral commission officers and support organisations are routinely abused in rural areas because they are confused for party campaigners.

Voter turnout in recent bye-elections has declined significantly on previous years. The Vanuatu Electoral Commission is concerned that voters are disenchanted with the electoral processes. Voter turnout further declined after the promulgation of Ombudsman’s reports detailing mal-administration and corruption at the highest levels. In the March 1998 elections turnout averaged 62%; in the February 2001 bye-elections it had further declined: for example in Malakula it was only 40%.

Currently there is no ongoing voter education programme in Vanuatu. Education programmes are hampered by the prohibitive cost of inter-island travel and the human and financial resource constraints of the Electoral Commission. Low literacy levels and limited access to radios further undermines the effective dissemination of information to regional areas. In the lead-up to the snap 1998 elections the Principal Electoral Officer approached the Wan Smol Bag Theatre and its affiliated theatre groups to conduct emergency voter education programmes in regional areas. The programme included an election play, question and answer sessions, poster distribution and television and radio productions, developed in consultation between the Electoral Commission and the Wan Smol Bag Theatre group. Wan Smol Bag estimates nearly 40,000 people were reached during this programme. Wan Smol Bag also conducted educational plays on voter registration in preparation for the scheduled March 2002 elections during 2001.

Partially the need for this kind of outreach programme would be ameliorated by the inclusion of civic duty lobes in school curricula.

- ✍ Support greater public education on the role and importance of elections, in appropriate formats for non-literate audiences.
- ✍ Support curriculum development for schools on the electoral process.

2.2.3 THE EFFECT OF TRADITION AND CULTURE

Acknowledgement of shared traditions is an important point of national cohesion in Vanuatu. Tradition and culture are referred to in Vanuatu as *kastom* (Custom). For this purposes of this report the multivocality of *kastom* must be considered: *kastom* is both sets of practices relating to cultural production; and in public discourse it is deployed to explain the nature of gender relations and ‘deep governance’⁴ issues, especially relating to the role and functions of chiefs versus state law offices.

Perceived state weaknesses and criticism of the performance of politicians has strengthened calls from grass-roots stakeholders for alternate forms of governance to be considered. The inability of state law officers to access rural areas and adherence to pre-existing forms of leadership has resulted in the *de facto* dominance of traditional leadership in the islands. Chiefs play influential roles in several sectors including arbitration and reconciliation, their imprimatur is required for potential political candidates in both rural and urban areas and they are increasingly involved in restorative justice programmes. The importance of chiefs to ‘deep governance’ issues in Vanuatu should not be underestimated

Chiefs are represented at a national level by the Malvatumauri (National Council of Chiefs). The Malvatumauri advocates *de jure* recognition for chiefs’ authority on a national level. Under the Constitution the Malvatumauri is “has a competence to discuss all matters relating to custom and tradition and may make recommendations for the preservation... of niVanuatu culture and languages” (s.30 (1). Furthermore, it “may be consulted on any question, particularly... relating to custom and tradition” (s.30 (2). On issues of land the parliament must consult with the Malvatumauri (s.76).

The Malvatumauri currently opposes several aspects of the Comprehensive Reform Programme, despite their inclusion in its formulation. It is currently opposed to the disclosure of council expenditure on the grounds that it is against customary procedure for chiefs to do so: it receives vt 10 million per annum in public funds. The President has made public pronouncements contrary to Vanuatu’s obligations as a signatory to the CEDAW Protocols. According to VNCW data, chiefs have blocked prospective women candidates from running in national or provincial elections. The Malvatumauri has demanded apologies from the VNCW for opposing its policies.

2.2.4 THE SEPARATION OF POWERS

The imminent trial for sedition of a former speaker of parliament and public pronouncements of support for his activities from senior members of the legislature demonstrates widespread conflicts of interpretation regarding the separation of powers. Recently this has involved Members of Parliament denying the right of the judiciary to arbitrate issues of interpretation of the Constitution and the Standing Orders, which under the Constitution are clearly the duties of the judiciary.

The chief justice has several concerns: The Judiciary is the final arbiter of the Constitution. It may rule on issues of interpretation of legislation, the constitution and the Standing Orders. Apart from this its ability to influence parliament is negligible. Recent court cases involving the former Speaker of Parliament have made explicit the Supreme Courts position vis-à-vis the Separation of Powers (For example, see Appendix C). The Supreme Court has established precedents for future cases in which the separation of powers is challenged. The Supreme Court

⁴ I use ‘deep governance’ to describe issues of leadership separate to the reform agenda.

should receive the support necessary to continue this process. The priorities for support programs should be developed in concert with the Supreme Court.

- ✍ The Supreme Court should receive the support necessary to continue this process.
- ✍ The priorities for support programs should be developed in concert with the Supreme Court.

2.2.5 THE ROLE OF CIVIL SOCIETY

Civil Society Organisations are currently weak in Vanuatu. Despite their involvement in steering committees and advisory bodies, CSOs are in several instances marginalized from decision-making circles.

Of particular concern is the lack of self-sufficiency and organisational weakness. The Vanuatu Association of Non-Government Organisations, the peak national association, is currently restructuring after the withdrawal of its core-funding agency, Community Aid Abroad. VANGO is not able to support itself in its current situation. Few CSOs are self-sufficient.

The support of Civil Society Organisations is critical to the successful formulation and implementation of government policy in several government departments (See 2.2.1 ELECTORAL PROCESS). Productive relationships have been developed between the Department of Youth and Sport and the Vanuatu Young People's Project, between the Wan Smol Bag Theatre and the Vanuatu Electoral Commission and between the Chambers of Commerce and the Department of Trade and Industry because of those organisations input to departmental policies and programmes. For example the Chamber of Commerce receives vt 20 million per annum for Industry and Trade training programs. General Manager of the Chamber of Commerce reports to the minister. Although their use of public funds must be accountable, the independence of CSOs involved in policy supporting programmes should not be compromised by the receipt of public funds.

While their support is crucial to the effective operation of the executive, their independence has been curtailed by Executive resistance to independent criticism. Several peak CSOs are critical of government policy. The Vanuatu National Council of Women has maintained a critical stance to the lack of a national report on CEDAW (See 2.6 Review of Women's Participation and Representation). CSO organised demonstrations have been derailed by government refusal to issue assembly permits, such as occurred during the proposed Silent Rally for Accountability.

- ✍ Need to coordinate government and CSO cooperation to include CSO support for government initiatives and allow for independent organisations to criticise policy deficiencies.

2.2.6 THE ROLE OF THE MEDIA

To ensure that the Executive remains accountable to the constituency, adequate information must be available to all constituents. A free media is one means to ensure this.

Despite the recent deportation (rescinded) of Marc Neil Jones, the publisher and editor of *the Trading Post*, media freedom is generally well respected in Vanuatu. Both the government-owned *Vanuatu Weekly/Hebdomadaire* and *the Trading Post* routinely publish articles critical of government policy and performance. Recently a second privately owned newspaper, *the Port Vila Presse*,

published in French, English and Bislama, was launched. The effectiveness of newspapers as a medium to disseminate information to all constituents is limited by literacy issues and the urban bias in sales/distribution.

The 1999 Census reports that over half of the population (51.4%) have and use radios. Talkback radio shows are routinely inspired by events of national political significance, and have been used as a platform to air grievances against the Executive. Parliamentary sessions are broadcast via broadband radio, but the impact of these broadcasts is unclear. The impact of these broadcasts is unclear. In rural areas daytime parliamentary broadcasts may clash with work times. Comprehension of technical issues relating to legislation is limited. Comprehension of legislation in rural areas could be strengthened by current affairs broadcasts explaining the meaning and ramification of Bills to be considered by parliament and explanation of developments during parliamentary sessions. Although the dissemination of relevant information favours urban centres, radio is the best means to disseminate information throughout Vanuatu.

- ✍ Support the production of current affairs broadcasts on the meaning and ramification of government Bills prior to the commencement of parliamentary session and provide updates throughout the sitting.
- ✍ Stagger the timing of such broadcasts to allow for conflicts between work schedules and parliamentary sessions.

2.2.7 LOCAL GOVERNANCE

Because of entrenched regionalism prior to independence, decentralization is enshrined in Article 82 of the Constitution. Vanuatu is divided between six Provincial Councils, each of which is further divided in area councils. Currently local government is responsible for small programmes, such as aid posts and kindergartens, tax collection and occasional public works. The chairpersons of Provincial Councils are automatic members of the Presidential Electoral College. Provincial politicians meet annually with the national executive to assess provincial needs. This network could be better utilised to disseminate information regarding Bills relevant to the provinces. Moreover, liaison between the national executive and the provinces could be formalised to allow debate on non-urgent legislation of relevance to take place in regional councils.

The Decentralization Review Committee is due to table its review of local government in Vanuatu to parliament in July 2001. It is not the intention of this report to pre-empt the findings of that commission. The commission has suggested several amendments to the system of local government including the removal of special interest seats for women, churches, chiefs and young people. Special interest representatives cannot vote and may not be recognized as valid contributors to debate, yet they still receive sitting allowance of elected Provincial councillors. The proposed removal of special interest seats is considered a backwards step by young people's and women's advocate groups.

- ✍ Utilize provincial councils to disseminate legislation.
- ✍ Empower provincial governments to consider relevant non-urgent legislation.

2.3 ASSESSMENT OF LAW-MAKING PROCEDURES OF THE NATIONAL PARLIAMENT

At present the Parliament does not effectively scrutinise the activities of the Executive. Departments are now required to provide programmatic budgets, corporate plans and annual reports, which will allow greater parliamentary scrutiny. Certain procedural changes will be required to fully benefit from these changes (*Harris Report*, 9).

Until 1998, the Committee of the Whole House dealt with the Committee Stage of the legislative process (See 2.4.4 Standing Committees). The effectiveness of the Committee of the Whole House is limited by the reluctance of political parties to debate contentious legislation in the parliament (See 2.3 Assessment Of Law-Making Provisions Of The National Parliament). This has worked well for previous governments, which have been able to pass legislation relatively quickly. The general level of debate has been limited by the inexperience of members, their incomprehension of technical issues and their lack of legal and technical secretariat support. Legislation has been of poor quality and Acts of Parliament often require subsequent in-depth, repeated and costly amendment (See 2.3 Assessment Of Law-Making Provisions Of The National Parliament).

- ✍ That the capacity of new Members be strengthened through training programs on the role and duties of parliamentarians.
- ✍ That new members be trained in parliamentary procedure to understand and best use written and oral questions, general debate and points of order.
- ✍ That independent parliamentary secretariat services be made available to members.
- ✍ That secretariat services include a technical component provided by the relevant ministry; and,
- ✍ That secretariat services include an independent legal component to ensure compliance with existing legislation and the Constitution.
- ✍ That amendments be made to Standing Orders to require Oral Questions to be put on notice; or,
- ✍ That amendments be made to Standing Orders to establish and enforce time limits for ministerial response.

2.3.1 CONSTITUTIONAL PROVISIONS

The Constitution establishes the National Parliament as the only institution able to “make laws for the peace, order and good government of Vanuatu” (A. 16, (1). Once a Bill is passed by the parliament it is presented to the President, in conference with the Supreme Court, for assent within two weeks (a.16 (3,4).

Bills may be presented either by Members who are not Ministers (Private Members’ Bill) or by a Minister (Government Bill). Any Member who wishes to introduce a Bill before Parliament must supply the clerk sufficient printed copies in French and English no less than 15 days prior to the meeting at which it is to be discussed. The Clerk shall then pass duplicate copies on to each Member no less than 10 days prior to the meeting at which it is to be introduced. This constitutes notice of the Bill.

Each Bill undergoes three stages of consideration: the first reading; the committee stage; and the third reading. After the first reading Bills are referred to the Committee of the Whole House for discussion, unless Parliament has already resolved to pass it on to an *ad hoc* committee. At the Committee Stage the advice of any person “who may be of assistance” may be sought (s.29 (6) *Standing Orders*).

2.3.2 LEGISLATIVE PROCESS

There is a need for improved processes to maximise the effectiveness of public participation in the legislative process. The House has been unable to thoroughly examine legislation. Governments have passed legislation rapidly: often the first and second reading have occurred on the same day. Debate on Bills has been minimal or of poor standard. The result has been legislation containing internal conflicts, which requires subsequent, costly amendment. Mechanisms should provide people the opportunity to articulate their comments on proposed legislation and government policy in a timely manner. However, public participation is not required in all legislation.

Since the implementation of the Comprehensive Reform Programme Government Bills have been copied from laws of other countries to fulfil urgent legislative requirements. This has resulted in Bills of unclear intention, which are often inappropriate for Vanuatu’s legislative needs.

Although not all constituents are able to contribute to debates on proposed legislation, certain issues are in the public interest. Yet community consultation is generally low (See 2.2 Assessment Of Existing Parliament-Constituency Relations). Not all legislation need be directly publicly scrutinised. For example, rural communities may not be able to meaningfully contribute to a debate on Internet gambling. In cases where it is warranted mechanisms greater provision is needed for public input. Provincial councils could be utilised for relevant Bills (See 2.2.7 Local Governance). Structures are already in place which allow CSO input on policy matters, yet this has not translated into comprehensive alteration of the legislative processes. The Family Protection Bill has undergone more extensive community consultation than most other Government Bills (See 2.3.2 Legislative Process). Much of this was organised by the Vanuatu National Council for Women and the Vanuatu Women’s Centre. Although it is a government Bill it is yet to be examined by parliament.

As a matter of priority a sense of legislative ownership should be fostered amongst government departments. In addition to the foreign origin of much legislation, until February 2001 the State Law Office (Attorney General’s Department) provided explanatory notes for Government Bills. This is now the duty of relevant government departments. Despite the newness of this system it is fostering a sense of departmental ownership of proposed legislation. For Government Bills, this duty falls to the Ministerial secretariat (a minister’s political secretaries and relevant departmental sources). Ministers should be briefed by their respective departments and provided with explanatory notes for Bills, which will ideally be presented in Bislama.

Opposition Members are unable to adequately research or be advised on Private Members Bills. For this to occur the resource capacity of the library needs to be improved (See 2.5.3 The Parliamentary Library), and members need access to legal advice from an independent parliamentary secretariat.

Backbenchers are cognizant that they are not routinely informed of legislation before they arrive in Port Vila for Parliamentary Session. Despite Standing Orders (s. 26 (2))⁵ the Clerk's Office does not notify members resident outside urban centres.

The Family Protection Bill has been the subject of in-depth community consultation, but it is yet to be introduced to the House. It reached list stage in the Council of Ministers in 1999 and was due to be tabled in Parliament but was removed when the government was toppled in a vote of No Confidence. Stakeholders consider it to have undergone more rigorous community consultation than most legislation since independence.

The Family Protection Bill is non-gender specific domestic violence legislation, which was originally imported from New Zealand as part of the Comprehensive Reform Programme. The initial draft Bill was deemed inappropriate for the legislative needs of Vanuatu. Alternative options were canvassed and consultations with church groups, chiefs and individual women, including a rural component, were initiated at the instigation key women's advocacy CSOs and the Department of Women's Affairs.

Stakeholders are concerned that delays in the consultation process indicate the Executive's reluctance to enact legislation which will offer legal recourse in cases of domestic violence, despite the provisions of the Comprehensive Reform Programme and Vanuatu's commitment to CEDAW. The Bill has been delayed because of the concern of some chiefs that it will augur social disintegration. In other instances governments have passed legislation without in-depth community consultation. The Vanuatu Women's Centre, the Vanuatu National Council of Women and Department of Women's Affairs are concerned that should the Bill fail to be introduced to the house then the money mobilized for consultations will have been wasted. CSO stakeholders were initially prepared to facilitate consultations, but are cognizant that this is properly the duty of the government.

It is the recommendation of this report:

- ✍ That Standing Orders and the Constitution be amended to allow non-urgent Bills to be disseminated to Provincial Councils as part of the consultation process.
- ✍ That government departments be supported through training and mentoring to foster the generation of explanatory notes to their ministers, which are to be provided in Bislama.
- ✍ That Standing Orders be amended to allow for a greater period of time between the First and Second Reading of Bills before the house.
- ✍ That an impartial secretariat be established as part of the Office of the Parliament to provide legal advice and assistance to facilitate the drafting of Private Members Bills.

2.3.3 COMMUNITY CONSULTATION

While community input is desirable for much legislation, consultation at every level of society is not practicable. Members are adamant that the government should maintain discretionary powers of inclusion for the formulation of Bills. Especially with regard to the Family Protection Bill stakeholders fear that consultation is used as a strategy to delay or derail legislation.

⁵ Which requires the notification of members 10 days in advance of session of Private Members' Bills and Government Bills.

Some proposed Bills require widespread consultation, especially Bills which are perceived as contentious or to be of direct relevance to rural constituents. Mechanisms are already in place to allow for CSO input in the legislative processes (See 2.2.5 The Role Of Civil Society). Consultation in rural areas is a costly and time-consuming process, but better mechanisms are required for information dissemination throughout Vanuatu and for greater access for the public to the legislative processes (See 2.2 Assessment Of Existing Parliament-Constituency Relations). The onus should be on Members themselves to be better informed and more open to approach by an informed public and stakeholder CSOs.

2.4 ASSESSMENT OF THE OVERSIGHT ROLE OF THE NATIONAL PARLIAMENT.

The parliament currently does not fulfil its role as an effective oversight organisation for the Executive. At its inception the parliament was dominated by the Vanua'aku Pati, which commanded a two-thirds majority. This has created confusion regarding the differentiation of legislative duties versus executive ones. The parliament is often regarded as a rubber-stamping organisation. Until the formation of the three standing committees in 1998 the Committee of the Whole House considered all Bills during the Committee Stage (between the first and second readings of proposed legislation), except in instances where an *ad hoc* committee was constituted to consider Bills.

The existing resource constraints of the parliament, the individual capacity of Members of Parliament and the *de facto* dominance of the Executive over the Legislature all affect its oversight capacity. The relative newness of Vanuatu's parliament means that its functions are at times under-utilised. Greater use of the committee system and increased integration of backbenchers in parliamentary institutions and offices, especially in the committee system, will improve the performance of the parliament as an oversight institution.

Although under Standing Orders there are several provisions for the effective operation of the parliament, they are not utilised to their full potential. In instances of technical complexity Members without formal education are largely unable to contribute to debate. Written and oral questions should be utilised to comment on government policy. In practice, the oversight capacity of Standing Committees is weakened by the overall cycle of accountability and the lack of follow up. The overall cycle of oversight needs strengthening.

- ✍ The dissemination of information in a manual, which is readily accessible to Members, preferably in Bislama.
- ✍ Encourage the involvement of backbenchers in parliamentary processes.
- ✍ Support ongoing training conducted in Bislama for Members of Parliament in parliamentary procedure.
- ✍ Encourage ministries to provide secretariat services to the Minister.

2.4.1 THE EXECUTIVE

The Executive is comprised of the Prime Minister and the Council of Ministers. At present the Executive overrides the Legislature. Legal reforms and increasing consciousness of the uses of Parliament by Members is changing this culture. The amended Expenditure Review and Audit Act has allowed for greater scrutiny of the Executive, among other things, through the Public Accounts Committee (see 2.4.5 The Public Accounts Committee), although the Public Accounts

Committee is yet to be fully effective. Legislative amendments will make available relevant information to effectively oversight of the Executive.

2.4.2 THE OPPOSITION

A strong opposition is necessary for the effective operation of the Westminster system. Effective oversight of the Executive requires coherent and consistent critique of both government policy and practice. Amendments to the Expenditure Review and Audit Act have provided for a non-government Member to chair the Public Accounts Committee, which has fostered greater oversight within that committee. Within the house factionalism means that there are often several parties in opposition. For the opposition to operate effectively a greater sense of shadow ministries should be fostered. (This is ideally the role of the political parties and outside the ambit of this mission). Consideration should be given to providing support for a Leader of the Opposition's Office. Given the fragmented nature of the parliament it may be necessary to amend Standing Orders to establish the procedures by which rightful Leader of the Opposition is chosen (*Harris Report*, 22).

- ✍ That shadow ministries be formalised.
- ✍ That consideration be given to providing support for a Leader of the Opposition's Office.
- ✍ That Standing Orders be amended to establish guidelines for the constituting the Leader of the Opposition.

2.4.3 THE AUDITOR GENERAL

The Auditor General's Office is provided for in the Constitution (a.25 (4)). The Office was formally created in 1982 and its powers and objectives were ratified by law in the Expenditure Review and Audit Act no. 3 of 1998. The Public Service Commission appoints the Auditor General.

The Auditor General is responsible for conducting audits, investigations and enquiries, examining and reviewing estimates of revenue and expenditure of public funds (although it is proposed that this be transferred to the Public Accounts Committee). The Auditor General is responsible for ensuring that Public Funds are appropriately accounted for and to ensure that all finances are used lawfully for the purposes established in Appropriation Acts.

The Auditor is required to report annually to parliament through the Speaker and to the individual ministries, agencies or offices that are scrutinised by his or her office. Reports must be produced in both French and English. The 1998 report is awaiting publication in French. The 1999 report is being queried by the Finance Department. Production delays of Auditor's Reports are primarily caused by the lack of timely and effective reporting mechanisms within government departments. The effectiveness of the Auditor's Office is weakened by limited follow-up on reports.

Under the Expenditure Review and Audit Act No. 3 of 1998, the Auditor General provides secretariat support for the Public Accounts Committee (See 2.4.5 The Public Accounts Committee). Involvement with the Public Accounts Committee has imposed human resources constraints on the office of the Auditor. The Auditor requires the recruitment of a qualified auditor to alleviate this.

- ✍ That the recruitment of an auditor to take-over the responsibilities of the Auditor General to the Public Accounts Committee be conducted.
- ✍ Strengthen the cycle of accountability by supporting the timely and effective reporting mechanisms within government departments.

2.4.4 STANDING COMMITTEES

There are currently three Standing Committees: the Public Accounts Committee (See 2.4.5 Public Accounts Committee); the Standing Orders Review Committee; and, the Members' Privileges Committee. Each committee consists 'of not more than 7 Members representing proportionally the political parties represented in Parliament. A majority of the Members of the standing committee shall constitute a quorum' (s.49 (3) *Standing Orders*). In practice, the Prime Minister and the Leader of the Opposition nominate four and three members respectively.

The Harris Report suggests the formation of several standing sector review committees to consider Bills at the committee stage (See 2.1.2 The Standing Orders). In the current environment, to divert resources from the three existing committees before they are fully operational would be counterproductive. It is imperative that the existing committees operate effectively. There may be some need to form a Foreign Affairs Committee in the future to monitor compliance with international treaties and consider the propriety of such treaties in the first instance.

The Speaker is an automatic member of the Standing Orders Review Committee and the Members' Privileges Committee and is their chairman.

The Members Privileges Committee has sat three times since its creation in 1998 and each time has voted to raise MP Allowances. The Representation Allowance is currently vt 166,000 per month, which was increased from vt 120,000 per month in 1998. For the duration of parliamentary session each member now receives vt 7500 per day in sitting allowances. In 2000 the sitting allowance was again increased from vt 17,000 to vt 34,000 per month (See 2.2 Assessment of Existing Parliament-Constituency Relations).

The Standing Orders Review Committee has met twice since its creation in 1998. It made no report to the Parliament. No recommendations for amendments to the Standing Orders were made. There was no follow up. The Standing Orders Review Committee could be modified to review government regulations and legislation. Delegated (subordinate) legislation is not brought under parliamentary scrutiny. This is a serious flaw in the legislative processes (*Harris report, 7*) To properly allow parliamentary scrutiny regulations should be passed before the House within a certain number of days of their promulgation. It is unlikely that there would be sufficient regulations to demand examination by a designated standing committee. These duties could fall to a reorganised Standing Orders Review Committee.

The Public Accounts Committee is acknowledged as the most effective of the existing Standing Committees. It has sat 9 times since its inception (See 2.4.5 The Public Accounts Committee).

- ✍ Bring delegated legislation within the ambit of parliamentary scrutiny; and to facilitate this,
- ✍ Consider the reorganisation of the Standing Orders Review Committee to include review of government regulations.

2.4.5 THE PUBLIC ACCOUNTS COMMITTEE

The Public Accounts Committee (PAC) was formed by an act of Parliament in 1998 (The Expenditure Review and Audit Act No. 3 of 1998), but first sat in 1999. It is responsible for examining issues arising from the Auditor General's Reports, which are of "legitimate public concern" as decided by the Committee. It has met 9 times since its inception.

Committee members are often unclear of the foundations of Fiscal Policy. Except in rare instances, they are unlikely to have the necessary training to thoroughly interrogate Fiscal Policy. Elected Members need not possess in-depth knowledge of fiscal management. Their position on the Public Accounts Committee is predicated on the make-up of the national parliament. Membership of the committee is annulled at the point of acceptance of a government post. Members' primary duty is to outline issues in the public interest and investigate the use of public funds with this in mind. In this environment it is more feasible to foster a strong parliamentary secretariat, which includes legal and fiscal components, which the Public Accounts Committee can access when necessary.

The Committee is composed through the election of seven members of Parliament. Their membership is then passed by Parliament. The Auditor General and the Deputy Clerk of Parliament are the only appointees. In the absence of the Deputy Clerk the Clerk fulfils secretariat duties. The Chairman is elected by the committee and pursuant to the Expenditure Review and Audit Act (Amended) is nominated from Opposition ranks. The Deputy Clerk is responsible for calling meetings, establishing session times and producing minutes. The Auditor General provides secretariat duties relating to fiscal management and the tenets of auditing.

The Public Accounts Committee needs Secretariat support to properly interrogate the use of public funds. The Auditor General and the Deputy Clerk of Parliament currently provide these duties. The Auditor General herself currently provides secretariat support to the Public Accounts, although she is in the process of recruiting an auditor who can take over these duties in the future. The Auditor General is of the opinion that her direct personal involvement in Committee investigations conflicts with the statutory duties of her office (See 2.4.3 The Auditor General).

The Public Accounts Committee is the most effective Standing Committee. It has successfully provided reports to parliament on a yearly basis since its inception in 1999, although these are backdated. Successful expenditure review and oversight in Vanuatu, however, is undermined by weak powers of prosecution and the lack of concerted follow-up. Under the act the committee is empowered to act on public submissions and summon witnesses, although it has not to this stage enacted those powers. The members of the committee have a clear knowledge of the separation of powers and are comfortable in their role as an oversight organisation. The amended Act provides for accountability and follow-up of committee reports, which include the publication of responses to committee recommendations and clear punishments for offences against the act. Directors General and agency heads named in its reports have 6 months to respond -longer at the discretion of the committee – and must include "a statement setting out the actions that have been taken during the year to which the report relates to rectify matters raised" in their annual reports (s.8 (16a) *Expenditure Review and Audit Act (Amendment)* no. 36 of 2000). Failure to comply represents an offence against the act.

Currently the committee is probing issues for the years 1993-1997, which are to be released as a compendium report in time for the next ordinary session of Parliament in the latter half of 2001.

The most recent report, *Public Accounts Committee, Report No. 3, November 2000, Report for 1992*, was presented to the Council of Ministers in December 2000. It was not considered during the first ordinary session of Parliament for 2001. Accountability requires the up-to-date examination of the use of public funds.

The backlog is due both to the recent creation of the committee and administrative delays at a departmental level. Government departments have failed to provide reports and written submissions. No standardised system of reportage is enforced in government departments. Despite their requirement to do so by law, governments departments have therefore failed to provide information completely, or have failed to do so in a timely and effective manner.

The committee cannot instigate police investigations nor does it have any prosecuting powers, which are the duties of the Public Prosecutor's Office. To strengthen the Public Accounts Committee the overall cycle of accountability needs to be strengthened. (This is outside the scope of this mission.)

The role of the Public Accounts Committee has to be strengthened in accordance with the changes in emphasis of the National Budgets, where resources are now allocated based on achievable targets. The Committee needs to have the appropriate powers to demand disclosure and prompt accountability from any government agency, public enterprise and any other entity, including NGOs, who received public funding. Public funds are designated in ministerial strategic plans, but the priorities of these change drastically throughout the term of the government. Especially in the event of a change of government there is a radical readjustment of priorities. The emphasis on programmatic budgeting needs a new system of reporting. It is imperative that the Committee be able to vet Appropriation Bills prior to their introduction to the House, and then conduct policy review at 6 monthly intervals. These expanded duties will require greater accountability and oversight of the duties of the Public Accounts Committee. The Harris Report proposed that guidelines for the Public Accounts Committee be adopted by act of parliament (See Appendix D). These recommendations should be considered at the earliest convenience.

Under this amendment the Public Accounts Committee would vet the Appropriation Bill at the committee stage rather than putting it the Committee of the Whole House. This would mean that an appropriation Bill which under the Standing Orders must pass through the house in 10 days or risk supply is a serious task for the Public Accounts Committee to take on, especially considering the current level of understanding of concepts and expertise.

Under current procedures government departments have six months to respond to committee reports. The role of the Public Accounts Committee would be strengthened by further amendment to the act, which enforces a three-month time limit for ministerial response and includes a time limit for tabling in parliament. The committee should be empowered to instigate proceedings against defaulters. The Chairperson should utilise question time to interrogate government progress on investigations arising from the Reports. The overall cycle of accountability needs strengthening.

- ✍ That compliance with the existing elements of the Act be enforced;
- ✍ Parliament must be able to investigate the expenditure of public funds in the most recent years;

- ✍ That compliance with the principle Expenditure Review and Audit Act be enforced;
- ✍ Training in facilitation and management training for committee chairpersons;
- ✍ That the Public Accounts Committee be strengthened by legislation making Ministers and Government Departments answerable to the Public Accounts Committee;
- ✍ That the individual capacity of PAC members be strengthened by training in Fiscal Policy;
- ✍ Secretariat services be made available to the Public Accounts Committee to support their activities, especially to:
- ✍ Provide technical assistance to the Public Accounts Committee on fiscal matters; and,
- ✍ Provide independent legal support.
- ✍ It is of utmost importance for the successful operation of the Public Accounts Committee that it is able to investigate the current use of public funds and hold users to account in the present;
- ✍ The PAC must be able to oversight Appropriation Bills prior to their passage through the House;
- ✍ Consider departmental expenditure estimates to review the performance of ministries;
- ✍ That the Public Accounts Committee be empowered to make mid-term evaluations on government expenditure;
- ✍ That the procedures proposed for the Public Accounts Committee be adopted by Act of Parliament (See Appendix D).

2.4.6 INTER OVERSIGHT ORGANISATION MESHING

The main oversight organisations outside the National Parliament are the Office of the Ombudsman and the Office of the Auditor General.

The Ombudsman reports to Parliament on an annual basis and is represented in the House by the Prime Minister. Ideally the Office of the Ombudsman would improve the effectiveness of the government and ensure stronger Parliamentary-Constituency Relations. The Office of the Ombudsman has drafted several reports which detail breaches of the Leadership Code, the misappropriation of public funds, and mal-administration by Members of the National Parliament. The Office of the Ombudsman is undermined by the weakness of the Criminal Prosecutions Bureau and the Public Prosecutors Office. Cases of white-collar crime and government mal-administration are not followed up because there is little capacity to do so. The Asian Development Bank is currently undertaking a legal sector strengthening programme.

Consideration should be given to the creation of Commissions of Enquiry, such as a Law Reform Commission, a Leadership Code Commission and a Language Commission. These organisations would be governed by charters, which ensure appointed chairpersons, outside

party politics. Such commissions would alleviate duties from the ombudsman and strengthen the oversight agencies collectively.

- ✍ That statutory bodies such as a Law Reform Commission, a Leadership Commission and a Language Commission be created to bolster the work of the Ombudsman as an oversight agency.
- ✍ Support legal sector strengthening.

2.5 ASSESSMENT OF EXISTING HUMAN RESOURCE CONSTRAINTS

Like other small island states, human resources in Vanuatu are initially limited by a small initial resource pool and limited opportunity for higher education. Members of parliament may not have received extensive education or suffer from individual capacity constraints relating to specific legal and technical knowledge. NiVanuatu interlocutors suggest that minimum tertiary-level educational requirements be put in place for Members. This is contrary to the Constitution (a.27 (1&2) and the Representation of the People Act.

- ✍ Train new Members in the roles and duties of parliamentarians (Preferably by a niVanuatu or Bislama-fluent educator).
- ✍ Develop country specific curriculum for training new Members, pursuant to the Forum's Eight Principles of Accountability.
- ✍ Foster greater understanding of the Constitution, Acts of Parliament, and Standing Orders, and the different bases and functions of each.
- ✍ Facilitate networks for professional exchange between officers of the Vanuatu parliament and other small regional legislatures, including Territorial governments in Australia.
- ✍ Private Members' Bills to be examined by a parliamentary legal secretariat to ensure compliance with existing legislation and the constitution.

2.5.1 THE OFFICE OF THE SPEAKER

The Office of the Clerk and the Office of the Speaker are separate entities. Employees of the Office of the Speaker are political appointees whose tenure relies on the continued incumbency of the Speaker. The Office of the Speaker comprises the Speaker and his personal secretary. The Speaker also maintains a personal driver.

The Office of the Clerk and the Office of the Speaker need to operate in closer communication as a milestone achievement to the effective operation of Parliament. The two deputy Speakers in no way improve or add to the effective operation of the Parliament.

- ✍ The offices of the Speaker and the Clerk should be merged to reflect the position of the Speaker as parliamentarian as responsible for the parliamentary chambers.
- ✍ That the deputy speakers take responsibility to oversight certain functions of the parliament.

2.5.2 THE OFFICE OF THE CLERK OF PARLIAMENT

The Public Services Commission appoints employees of the Office of the Clerk. There are currently 6 staff under the Office of the Clerk: the Clerk of Parliament; the Deputy Clerk/Financial Controller; Two typists; and Translation services, comprising two translator/secretaries. The Librarian is daily rated, but works full-time.

The current Clerk of Parliament has held the position continuously since 1983. He performs chamber work, is responsible for the administration of the Parliament offices, provides advice on Standing Orders for the Speaker of Parliament and is responsible for presenting Minutes of Parliament to the Parliament for approval. The Deputy Clerk is the Financial Controller of Parliament, which includes administering and acquitting MP allocations.

The Office of the Clerk has suffered severe human resources constraints stemming from cutbacks in the early 1990s. Because of this there was no photocopying machine between 1995 and 1998.

A breakdown in the cycle meant that the Clerk's office has failed to present the minutes of Parliament for approval since 1992. The last printed set of minutes is from 1998. 1999 is finished, but remains in the typists. 2000 is still in typing. Some minutes were initially distributed in 1993, but were not passed due to political upheavals in the Parliament. Hand-written minutes from 1995-1996 were misplaced during a court case in which they were to be presented as evidence. The translators generally complete hand-written transcription of the Minutes of Parliament within three days, which are then corrected by the Deputy Clerk. They are then typed. The productivity of the Parliamentary typists is low. There are provisions already in place, such as overtime and responsibility allowance, to have parliamentary officers work overtime to facilitate the speedy and efficient production of minutes of Parliament.

This necessarily limits access to the proceedings of past Parliaments, although Minutes provide pointers to the taped sessions, which are available in the Parliamentary Library. Any future publication of Hansard reports must be in Bislama as this is the primary language used in the House.

- ✍ That as a matter of urgency Minutes of Parliament after 1992 be presented to parliament and passed.
- ✍ That Hansards Bislama be provided.
- ✍ That staff of the Office of the Clerk be provided training in computer skills, typing skills, office management and Internet use.

2.5.3 THE PARLIAMENTARY LIBRARY

Knowledge of Parliamentary resources is scant amongst Members. Copies of the Constitution and the Standing Orders of Parliament are available for sale from the Parliamentary Library, but Members have little access to the Principal Acts. Motions, speeches and annual returns are held in the Parliament archives and can be retrieved on request to the librarian. Minutes of Parliament up to 1992 are available in the library. Minutes up to the second ordinary sitting of Parliament in 1996 are available upon request from the photocopy room (See 2.5.2 Office Of The Clerk Of Parliament). There are no Hansards, but verbatim recordings are available for research purposes on analogue audiocassettes from the library.

The parliamentary library is not fully catalogued. There is only a minute book recording of the Acts of Parliament (1980-2001) and no compendium of Vanuatu laws has been produced since 1988. Several acts, government publications and reports are missing from the library. Minutes are dispersed throughout the parliament because of the failure of the Office of the Clerk to prepare Minutes to be passed before the House since 1992. The library would be more effectively catalogued by computer.

The library is open to the public. Students and researchers are the most common visitors. Few Members use the library for research purposes.

In 1994 the librarian was made redundant to cut costs. The current librarian was recruited in 1997. She is currently a daily-rated employee.

- ✍ That the Parliamentary librarian should be made a permanent employee.
- ✍ That an exchange programme be put in place between USP Library and the parliamentary library to provide professional support for the Parliamentary Librarian;
- ✍ Support the preparation of a Compendium of Laws 1988- for presentation to the Parliamentary Library.
- ✍ Support the provision of a computer to the parliamentary library; and,
- ✍ Support training for the parliamentary librarian in the use of computer cataloguing.

2.6 REVIEW OF WOMEN'S PARTICIPATION AND REPRESENTATION

Despite the involvement of several women in the early nationalist movements, only two women have ever been elected to the National Parliament, only one of whom has actively served. The poor representation of women in parliament reflects broader issues of gender equity in Vanuatu. Between 1990-2000, a period typified by endemic instability, the position of women in public life has deteriorated. In 1995, the Vanuatu Government ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and included a National Plan of Action for Women in its Development Plan. Vanuatu's CRP includes a range of important and ambitious policy objectives aimed at improving social equity and sustainability. Because of existing inequalities, special emphasis has been given under the CRP to assessing, from the design stage, the distribution of positive and negative gender impacts of reform. No national report on the effects of the Protocols has been formulated. Despite legislative reform the position of women in Vanuatu appears to be worsening.

Since independence fostering a sense of gender equity has been on the policy agenda for Vanuatu. The Vanuatu National Council of Women was formed in 1980 and despite resistance from church groups, the Malvatumauri and funding difficulties it has functioned as the peak advocacy institution for women in Vanuatu. Its core functions are the empowerment of women, strengthening the participation of women in public decision-making and advocating women's issues. While the VNCW acknowledges that its role has been hampered by organisational difficulties, deeper social issues regarding the status of women in Vanuatu continue to limit their representation at the highest levels of government and in the National Parliament.

The President of the Vanuatu National Council of Women perceived a:

neglect... of women's views... (and) an attempt... to thwart...women's participation in a Good Governance Project purposely set up to promote transparency and accountability in Vanuatu (*VANWIP Project Completion General Report*, 2).

The position of women in rural areas is more difficult to gauge for the lack of sufficient and up-to-date data, but in the 1995 and 1998 elections rural communities appeared reluctant to endorse or support women candidates. According to the completion report of the VANWIP Project Completion General Report (Good Governance Component) the breakdown of government stability has created a backlash against the inclusion of women in decision-making. In 1996 the 'Women's Empowerment Program (sic)' was brought under the general ambit of Good Governance.

Since 1992 the Vanuatu Women's Centre has witnessed an increase in reported cases of domestic violence. Male politicians trivialize abuse. The Family Protection Bill, which is designed to give legislative weight to these considerations, has not been tabled for consideration in parliament (See 2.3 Assessment Of Law-Making Procedures Of The National Parliament). It appears likely that the Family Protection Bill will be listed for parliamentary scrutiny by the current government. There is little access to state protection, such as police and courts, for women in rural areas and counselling is often unavailable due to physical remoteness. While women's participation is growing in both the public and private spheres - the Public Prosecutor, the Registrar of the Supreme Court, the Director of Women's Affairs, the Director General (Acting) of Internal Affairs are women – this has not yet translated into greater representation of women in Parliament.

For many women politics is a dirty word. The Vanuatu Women in Politics (VANWIP) Movement was organised to counter the under-representation of women in politics and facilitate an environment in which women could be comfortable running for public office. VANWIP targeted Legal literacy (CEDAW and CRC), Constitutional rights education, economic empowerment, political empowerment and gender equity as the key areas requiring support for women's empowerment. VANWIP's contestation of the 1995 and 1998 elections as a separate movement increased public awareness of the issues surrounding under-representation of women, but in neither instance was a candidate elected. The VANWIP executive is concerned at the low level of support it has received from government and Parliamentary offices for these endeavours.

The major parties are increasingly inclined to consider the value of electoral support from women. Although only one party has built representation of women into its party platform, the major parties either have women representatives on their executives or support their election in principle. They consider separate VANWIP candidates unduly divisive. In 1995 and 1998 the major parties were forced to deploy women members to actively campaign against the VANWIP candidates in their electorates. Political party leaders support the principle of women in politics, as long as they are members of the existing political parties and show respect for 'custom and Christianity'. Only the Malvatumauri is openly opposed to the involvement of women in politics. VANWIP no longer considers running separate candidates as a viable option.

The Decentralisation Review Committee suggested that it will investigate the removal of special interest seats in Provincial Government Councils. This is considered an attack on the continuing support for women in public decision-making positions. Rural Christian women's associations make up the bulk of the VNCW's rank-and-file membership. In 1999 Provincial Rural Women Officers carried out the majority of workshops. However, in 2000 their positions were

terminated. The VNCW has attempted to compensate for this by including Provincial Presidents in their place. Support for Regional Councils of Women will be an issue of key importance over the next four years for the VNCW.

- ✍ That a progress report on compliance with the CEDAW Protocols be undertaken as a milestone achievement in strengthening the position of women in Vanuatu.
- ✍ That, as a matter of urgency, the Family Protection Bill be presented to Parliament for consideration.
- ✍ That continuing political literacy programmes be run for women.
- ✍ That the VNCW's regional outreach programmes be supported.
- ✍ That women's advocacy organisations continue to play a role in steering committees for good governance.

2.7 ISSUES ARISING FROM PREVIOUS TRAINING INITIATIVES AND CONSULTATIONS

This mission duplicates key areas of previous needs assessment consultancies. Foremost amongst these is the report prepared by Mary Harris, Clerk Assistant (Select Committees) from the Office of the Clerk of the House of Representatives, New Zealand, and funded by the New Zealand Overseas Development Agency. The report was presented to Vanuatu's Department of Strategic Management and the Council of Ministers in October 2000, but has not yet been acted upon. Both the VANWIP Good Governance Programme, sponsored by ESCAP, and Margaret Shields, QSO Social Policy Consultant, have conducted training for Members of Parliament. Shields also produced an English language training manual and booklet to support the workshop. This report supports agrees with and supports several recommendations of the Harris Report.

Qualifying the success of previous training programs is problematic for the lack of any terms of reference. Generally training initiatives are not perceived as having been successful in that there have been few perceptible changes. That Members of Parliament have received ongoing training in several areas is commendable and most Members are open to ongoing training.

2.7.1 VANUATU GOVERNANCE AND ACCOUNTABILITY PROJECT, VANWIP COMPONENT.

VANWIP highlights government inertia and national fragmentation as issues of 'critical common national concern'. It focuses upon inertia at highest levels and endemic instability as the major reasons for poor success in achieving good governance best practice. Stakeholders have experienced serious setbacks because of the continual need to brief new ministers and political secretaries and the lack of policy coherence over the long term. Political instability has impeded the development of corporate memory within the highest levels of government.

The Vanuatu Women in Politics (VANWIP) organisation conducted training for politicians in Good Governance Best Practice between 1999 and 2000. It was the only ongoing training of its kind offered to politicians at that time. VANWIP's contract expired in October 2000. Despite attendance of only 15 participants in the CRP Workshop, it was the only training of its kind conducted at the time. The major benefit of VANWIP's training program was that it contained considerable niVanuatu input in terms of training and development.

- ✍ Future training courses must include a large component of niVanuatu input for curriculum development and face-to-face training (See 2.5 Assessment Of Existing Human Resource Constraints).

2.7.2 MARGARET SHIELDS PARLIAMENTARY HANDBOOK

Social Policy Consultant and former NZ Member of Parliament, Margaret Shields QSO, conducted workshops for Parliamentarians in 1997 and 1998. A handbook, funded by UK DFID, was subsequently produced in 1999⁶. It has not been distributed because there has been no translation into French. Most Members are unaware of its existence. Amongst those who do know of its existence many were critical of the approach and attitude of the trainer, Margaret Shields QSO, which was felt to be inappropriate to the needs of niVanuatu politicians. That the training was conducted in English is considered an impediment to the successful communication of the workshop's message.

The Margaret Shields training course was contemporaneous with a previous motion of No Confidence, which meant that certain participants were continually called away from the seminar.

- ✍ That training programmes of this kind be conducted outside of parliamentary session.
- ✍ That training for training for parliamentarians be conducted in Bislama, or in parallel French and English streams.
- ✍ That curriculum development for training modules include input from niVanuatu stakeholders, including former members of parliament, bureaucrats and lawyers.

2.7.3 THE HARRIS REPORT

The Harris Report, funded by the New Zealand High Commission, duplicates several of the terms of reference of this consultancy. Its primary aim was to outline areas for strengthening to ensure the efficient operation of the Vanuatu Parliament. The report was presented to the Department of Strategic Management and the Council of Ministers for consideration. It has yet to be acted upon.

The delay in disseminating the report is partially due to the publication of the report in English only. The Harris Report duplicates many of the key areas of this mission and many of its recommendations have been incorporated.

2.7.4 WAN SMOL BAG DEVELOPMENT THEATRE

Since its inception Wan Smol Bag has strived to provide an accessible format for the dissemination of quality information on issues such as public health, gender equity, the rights of the child, environmental issues, immunization, tourism, good governance and constitutional issues. Wan Smol Bag maintains its core theatre groups, an audio-visual production unit and a health clinic at its headquarters. In preparation for the 1998 elections the Electoral Commission was forced to outsource the majority of its regional outreach functions to Wan Smol Bag (See 2.2.1 The Electoral Process).

⁶ The Hon. Margaret Shields, *Republic of Vanuatu Parliamentary Handbook*, UK DFID, 1999.

Wan Smol Bag Theatre has become a benchmark educational and outreach development tool in Vanuatu. Regional outreach is crucial to any development process in Vanuatu because of the predominantly rural population. Because of poor literacy levels text is often not an effective means of communication. Newspapers are not widely read. Radio is often an inaccessible or inappropriate medium (See 2.2.6 The Role Of The Media). Without appropriate contextual knowledge, rural niVanuatu may not be able to fully comprehend the meaning of unexplained Parliamentary Broadcasts. Theatre is an appropriate means of communication in this environment.

Wan Smol Bag maintains strong support from grassroots stakeholders and several Parliament Members from rural constituencies.

- ✍ That outreach programmes in support of electoral processes and legal literacy conducted by civil society organisations be supported.

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APPENDIX A: CONSULTATION PROGRAMME

Monday 19 March

Hon. Paul Ren Tari, MP NUP Maewo, Speaker of the Parliament.

Tuesday 20 March

Susan Cox, 1st Secretary, Australian High Commission & **Jenny Brown**, 2nd Secretary, Australian High Commission, Port Vila.

Maimo Koro, Project Manager, UNDP Good Governance Project.

Dr Don Patterson, USP Law School, Emalus Campus.

Lyno Bulekuli dit Saksak, Clerk of Parliament.

Wednesday 21 March

Lyno Bulekuli dit Saksak, Clerk of Parliament.

Hon. Edward Nipake Natapei, MP VP Vila Urban, Leader of the Opposition, President of the Vanua'aku Pati.

Hon. James Bule, MP NUP Ambae, Deputy Prime Minister & Minister of Trade and Commerce.

Hannington Alatoa, Ombudsman of Vanuatu.

Thursday 22 March

Grace Mera Molisa, President VNCW.

Chief Tom Numake, President, Malvatumauri (National Council of Chiefs).

Willie Toa, President VANGO.

Ricky Binihi, Editor, & **Jonas Cullwick**, sub-editor, Port Vila Presse.

Friday 23 March

John Aru Huri, President, Vanuatu Chamber of Commerce.

Tuesday 27 March

Peter Walker & Jo Dorras, Wan Smol Bag Theatre.

Michael Wright, Legal Drafting Advisor, **Nick Nassiau**, Legal Officer, **Angeline Saul Dovo**, Legal Officer.

Wednesday 28 March

Public Accounts Committee (Present: Hon. Jackleen Reuben Titecks (Chair), Hon. Jimmy Nicklam, Hon. Allan Nafuki, Hon. Foster Rakom, Hon. Jimmy Imbert, Hon. Easmon Saemon. Absent: Hon. Ham Lini).

Thursday 29 March

Julie-Anne Rovo Sumbetovi, Auditor General.
Chief Justice Vincent Lunabek, Chief Justice, Supreme Court of Vanuatu.

Tuesday 3 April

Merelyn Tahi, Co-ordinator, Vanuatu Women's Centre.
Emiliano Bouletare, Deputy Clerk of Parliament.

Wednesday 4 April

Tom Alick Kalo, Acting Principal Electoral Officer, Vanuatu Electoral Commission.
Lewia Moli, Librarian, Parliament House.

Thursday 5 April

Howard Aru, CEO, Vanuatu Foreign Investment Board, Ministry of Trade and Business.

Friday 6 April

Hilda Taleo, Director, Department of Women's Affairs.

APPENDIX B: TERMS OF REFERENCE VANUATU LEGISLATIVE NEEDS ASSESSMENT

I. BACKGROUND

The Parliament of Vanuatu saw it necessary to strengthen its capacity based on the strong commitment of the Government of Vanuatu to promote good governance best practices. The Government has made a firm commitment, through the Forum process, to implement eight principles of accountability, i.e. the Forum's Eight Principles of Accountability. A stock-take assessment on the capacity of Vanuatu to implement the principles revealed that the role of the Parliament of Vanuatu has to be strengthened if it is to fulfil its constitutional functions and to effectively practice and demand for accountability and transparency. The reinvigoration of the role of Parliament and the strengthening of its core functions of legislating, oversight and representation is in many ways complementary and reinforcing reform activities under the Comprehensive Reform Programme for the public sector of Vanuatu.

The Speaker of Parliament of Vanuatu and other Speakers of Parliaments from Forum Island Countries (FIC) have also agreed during their meeting in Nadi, March 2000 to support the initiative of FIC Leaders, through the Forum process, to implement the Forum's Eight Accountability Principles. (Attached are, i) the Statement from the above-mentioned Conference; and ii) the record of the resolutions of the Speakers' retreat made during the same Conference). Most recently the Forum Economic Ministers Meeting, which was held in Niue, July 2000, commended the initiative of Pacific Speakers to the Forum Heads of Government meeting 2000 and further resolved for the Forum Secretariat and UNDP to develop key principles of widely accepted best practices for Pacific legislatures.

As agreed with Speakers and Clerks of Parliaments, few Pacific legislatures will be selected as pilot parliaments. A comprehensive needs assessment will be carried out in the selected pilot legislatures and the result of each studies to be the basis of a support programme to strengthen parliamentary functions in that country. Vanuatu has been selected as one of the pilot countries. The findings of the same assessment carried out in all the pilot parliaments will then be collated with the view to generate key and generic principles of best practices for Pacific legislature based on the notions of parliamentary democracy, participation, equity, accountability, transparency, efficiency, representation, integrity and fair elections.

II. AREAS FOR INSTITUTIONAL AND CAPACITY STRENGTHENING

The major challenge for Vanuatu's parliamentarians is to sustain the functions of State governance institutions, given democratic changes in society, in order to optimally facilitate and promote a private sector led development strategy. Capacity – and institution – building support to the Parliament will be of great value for strengthening parliamentary democracy on the one hand, and for enhancing legislative – parliamentary, parliamentary oversight and parliamentary – constituency relations, on the other.

Vanuatu's parliamentarians must have the capacity for sound professional analysis of draft laws prepared by Government agencies, particularly on such critical issues as budget preparation, market economics, aid co-ordination and aid management, the role of state in a modern democracy, decentralisation, etc. However, the *existing human resource constraints* in the Parliament limit the effectiveness of parliamentarians in performing their mandated tasks and make difficult the practical implementation of weak and vaguely formulated laws. There is a need for technical expertise to provide support to all Members on various issues to help them scrutinise proposed legislation and contribute effectively to parliamentary debates. Technical expertise is also needed so that proposed laws can be harmonised with existing ones.

It is important that *parliament-constituency relationships* are enhanced by introducing appropriate mechanisms to improve parliamentarians' accountability vis-à-vis their constituents. This mechanism should enable the electorate to assess the effectiveness of Members in representing their aspirations in the public decision-making processes, as well as their ability to explain the importance of decisions made and laws adopted by Parliament.

Most important to be improved is the *Parliament's oversight* role. Parliament needs to consider whether it is now appropriate to establish other oversight committees of Parliament. The role of the Public Accounts Committee has to be strengthened in accordance with the changes in emphasis of the National Budgets, where resources are now allocated based on achievable targets. The Committee needs to have the appropriate powers to demand disclosure and prompt accountability from any government agency, public enterprise and any other entity, including NGOs, who received public funding.

Legislating procedures of parliament needs to be reviewed to determine whether there are sufficient mechanisms for the inclusion of people in the legislative process. The Rules of Procedures of Parliament needs to adequately provide for peoples' views on proposed legislation, even if the Government certified a proposed legislation as urgent. Regulatory provision should also be sufficient to allow for all parliamentarians to have adequate understanding of proposed legislation before parliamentary debate.

Many parliamentarians recognise *the need to review the Law on the Legal Status of Members of Parliament and their codes of conduct*. The Speaker recognises the importance of all Parliamentarians to live by examples and to be accountable for their entitlements paid to assist them with their public obligations. An on-going training programme and the provision of a "codes of conduct" for all parliamentarians should strengthen the performance of Members and the sanctity and integrity of Parliament.

III. OBJECTIVES OF THE NEEDS ASSESSMENT STUDY

1. Assess the existing national legislation related to the Parliament and Members of Parliament;
1. Review the existing mechanisms for legislative–parliamentary, parliamentary oversights and parliamentary-constituency relations;
2. Conduct a needs assessment to address the gender imbalance in parliamentary representation and legislative consideration;
3. Based on the above three objectives, provide a report that contains recommendations on institutional and capacity building support programmes for the Parliament of Vanuatu.

IV. THE CONSULTANT & REQUIRED QUALIFICATIONS

An expert on governance with gender background and familiar with the capacity and institutional needs of Pacific legislatures will carry out the assessment mission. The expert will have the following minimum qualifications:

Master Degree or equivalent in Law, Public Administration, Sociology/Gender Studies, Political Sciences, or relevant field;

Professional experience in addressing the issues related to parliaments, legal/institutional framework and gender;

Work experience in assisting parliaments/parliamentarians in Pacific legislatures. Experience with other parliaments strengthening programmes in other countries will be an asset.

V. TASKS & RESPONSIBILITIES

The assessment mission, under the over-all direction of the Regional Programme Manager of UNDP/GOLD will:

Review the existing key legal documents, including the Constitution of Vanuatu, Electoral Laws, and Rules and Procedures of the Parliament, to assess if the legal framework is adequately contributing to effective law making and parliamentary oversight processes. In this effort, consultations with members of the Standing Committee, present and former Members of Parliaments, representatives of the Executive Branch, the Judiciary, civil society organisations (including women NGOs), and the media will be undertaken. As a result of this assessment, there should be recommendations on how to improve the current legal and institutional system for the Parliament of Vanuatu.

Assess the existing parliament-constituency relationship to suggest better mechanism aimed at strengthening parliamentarians' accountability vis-à-vis their constituents. This mechanism should enable the electorate to assess the effectiveness of Members in representing their aspirations in the public decision-making processes, as well as their ability to explain the importance of decisions made and laws adopted by Parliament.

Assess the law-making procedures of Parliament and recommend ways in which this process might be improved. The improved process should maximise the participation of all constituents in the legislative process. The new proposed mechanisms (if any) of this improved process should provide people the opportunity to articulate their comments on proposed legislation and government policy in a timely manner.

Assess the oversight role of Parliament and the effectiveness of the Public Accounts Committee in holding users of public funds to account. Recommend ways in which this function might be improved, including the role of the Auditor General and the relevant powers required by Parliament, through its oversight committees, to impose consequences for non-compliance by government agencies with their accountability deadlines.

Assess the existing human resource constraints that limit the effective functioning of the Parliament and parliamentarians, in order to develop a comprehensive strategy/plan for addressing the current needs of parliamentarians to improve their professional capacity.

Review the current policies and, what is more important, practices of the parliament, parliamentary fractions, and NGOs aimed at moving from 'de jure' to 'de facto' equality and strengthening women's participation in political leadership, in general and women's representation, in particular. This review will be undertaken through existing policy documents as well as active discussions with present and past Members, heads of women NGOs and other civil society organisations.

Recommend ways in which potential and existing women leaders will be assisted in building skills, confidence and opportunities through training and other support activities; advocacy through media and gender sensitive surveys/researches to address problems relating to social relations and attitudes which perpetuate gender inequality. Emphasis should be placed on involving both women and men throughout of the design and implementation of a support programme for the Parliament of Vanuatu.

In carrying out the above tasks the consultant will make full use of studies that were carried out previously by other donors on the capacity of the Parliament of Vanuatu. The outcomes of the workshop for parliamentarians organised by the Government, Parliament, UKDFID, EPOC and UNDP in October 1999 should be taken into account also.

VII. EXPECTED OUTPUTS

Upon completion of the assessment mission and discussions with key stakeholders, the consultant is expected to deliver a report with recommendations on concrete initiatives to be implemented by the Parliament of Vanuatu.

VIII. INDICATIVE TIMETABLE

The proposed assessment mission will take place in March and will last up to three weeks. The mission's findings will be in the form of concrete activities to be implemented by the Parliament of Vanuatu. The consultant's final report should be submitted to the Regional Programme Manager, UNDP GOLD Programme for the Pacific, not later than three weeks after his/her visit to Port Vila.

APPENDIX C: SUPREME COURT JUDGEMENT, 6 APRIL 2001

NATURE OF THE CLAIM AND RELIEF SOUGHT

This is a Constitutional Petition. On 3 April 2001, 27 Members of Parliament (M.P) filed a petition in the Supreme Court at Port Vila, pursuant to the provisions of Articles 2, 53 of the Constitution and Section 218 and 219 of the Criminal Procedure Code Act [CAPI 36]. The respondent is Hon. Paul Ren Tari, the Speaker of the Parliament of the Republic of Vanuatu.

The petitioners' claim

1. Leave to apply for the Writs of mandamus and certiorari.
2. A declaration that the decision and/or ruling by the Respondent made on 3 April 2001 to prevent Parliament from debating and dealing with the Motion is invalid, void and of no effect.
3. A declaration that Parliament is still meeting in its First Ordinary Session in 2001 and that the decision made by the Respondent on 3 April 2001 to close Parliament's First Ordinary Session in 2001 is invalid, void and/or of no effect.
4. Further and/or in the alternative an order directing the Respondent forthwith to reconvene Parliament and place before the Parliament the Motion so that Parliament can debate and deal with the Motion in accordance with the law and Standing Orders of Parliament.
5. Any other or further Orders as the Court shall deem fit.
6. Costs of and incidental to this petition. The grounds of the petition are as contained in the petition. The petition is supported by two (2) affidavits filed respectively by Hon. Edward Natapei MP, Leader of the Opposition and Mr. Silas Hakwa MP, Deputy Leader of the Opposition. The Respondent filed an affidavit in response.

On 4 April 2001, both Counsels in accordance with the direction Orders issued by the Court on 3 April 2001, provided a common statement of facts and issues agreed and in dispute. Both counsels indicate that there is no need to cross-examine the deponents of the affidavits on disputed facts. They both agreed to waive immunity/privilege issue on the Motion. The Respondent undertakes to abide by the orders of this Court.

CONCESSIONS MADE BY THE RESPONDENT

The respondent conceded that the facts as contained in the affidavit of Hon. Edward Natapei from paragraphs 1 to 11 are accepted. It is further conceded for the Respondent that he had the view that because of the filing of the Writ of Summons in Civil Case No. 30 of 2001 (deformation case between Hon. Barak T. Sope and Others), the Motion of No Confidence is subjudice. The Respondent says upon being taken legal advice, he accepted it is not a good reason and there is no subjudice issue.

Finally, it is conceded on behalf of the Respondent that when the Motion of No Confidence was filed, the Respondent/Speaker accepted that it complied with Article 43 (2) of the Constitution and 7 days notice period and was executed/signed by one sixth of the Members of Parliament.

It was also said that the Respondent took no issue about the veracity of the signature or the Motion obtained on duress or unlawful means. The Respondent has agreed to leave being given and time abridged.

THE FACTS

In the light of these concessions, then the facts in this case straight forward and are as follows: On 26 March 2001, 27 duly elected members of Parliament had handed to the Speaker a Notice of Motion pursuant to Articles 43(2) of the constitution indicating No Confidence in the Prime Minister the Hon. Barak Tame Sope Ma'utamate.

On 26 March 2001, Parliament assembled in session. The Government benches in Parliament had 21 members of Parliament while the opposition benches had had 29 members of parliament .The Government withdrew all government Bills intended for its current First Ordinary session of Parliament in 2001.

The Prime Minister announced that the Government has lost its majority in Parliament and further that the Council of Ministers had earlier that day resolved to advise the President of the Republic of Vanuatu to dissolve Parliament.

The Prime Minister also publicly announced in Parliament that he would resign if the President should decline to dissolve Parliament.

The Respondent/Speaker then adjourned the sitting of Parliament to 2.00pm on Wednesday, 28 March 2001.

The President of the Republic of Vanuatu advised he would not dissolve Parliament.

On 28 March 2001, Parliament re-convened for normal business at 2.00pm. The opposition side in Parliament had 29 Members of Parliament while the Government only had the support of 22 Members of Parliament.

The Respondent/Speaker advised that there were no written questions for Parliament to deal with so he decided to adjourn the sitting to 4.00pm on Tuesday 3 April 2001 so that the Parliament could debate and vote on the motion. The Prime Minister did not resign as he stated in Parliament.

On 3 April 2001, Parliament re-convened at 4.00pm The Opposition had 27 Members of Parliament on its benches while the Government side had only 22 Members of Parliament excluding the Respondent and two Members of Parliament who represented the Green Party).

The Respondent then advised and ruled that the Parliament would not debate and/or deal with the Motion because of some typing errors or incorrect references of the provisions of the Constitution in the content of the Motion of No Confidence. The Motion being the last item on the agenda of Parliament Session, and as Parliament now had no other business the Respondent/Speaker closed the First Ordinary Session of Parliament of 2001.

It is also agreed between the parties that on 3 April 2001 the petitioners filed the documents herein and issued against the Respondent a Summons to call Parliament to an extraordinary Session to debate a further Motion of No Confidence ("the second motion").

THE ISSUE TO BE DETERMINED BY THE COURT AND DECISION

The issues before the Court are

1. Whether the form of the First Motion was such that it breached the standing Rules.
2. If so whether Respondent was correct in closing Parliament or whether the debate should have been adjourned 7 days for amendment.
3. If not whether the Speaker should re-summon Parliament to debate the first Motion.
4. Whether the filing and acceptance of the second Motion has made the Court functis officio in respect to (1 - 3) hereof.
5. And/or in the alternative whether the second Motion has had the same effect as an amendment to the first Motion and/or the effect that the Motion in any effect is now expired on the issue of the second Motion.

I proceed to deal first, with issues 4 and 5 together.

It is accepted as a fact on 3 April 2001 the petitioners filed the document in relation to the petition in Court and issued against the respondent a Summons to call Parliament to an extraordinary Session to debate a further Motion of No Confidence ('the second Motion').

The Summons referred to above is not a matter before this Court. The said Summons was issued to call Parliament to an Extraordinary Session. This is a matter for Parliament alone but not for this Court.

If the filing and acceptance of the Summons by the Respondent/ Speaker to debate the second Motion' has rendered the Court Functis Officio, the Supreme Court of this Country will fail to exercise its constitutional duty which is to protect and enforce the provisions of the Constitution under Articles 6 and 53. The Respondent's submission must be rejected on that point and I so rule.

My answer to issue 4 is : No.

Further, it is important to understand that in entertaining a Constitutional Petition and in granting relief sought under such a petition, the Supreme Court would not be interfering in any matter the exclusive province of Parliament but would be interfering and upholding the Constitution. The interpretation of the constitution and the granting of relief is self-evidently not a function of Parliament but the responsibilities entrusted to the Court by the people of this country through the Constitution.

The Respondent submitted that the Second Motion' has had the same effect as an amendment to the 'first Motion' and/or the effect that the Motion in any effect is now expired on the issue of the "second motion". This submission is without foundation.

The best evidence here is that although, the Petitioners lodged a 'second Motion' before the Parliament, they are in Court and asked the court to exercise its duty to enforce the breach of a provision of the Constitution in relation to each and all 27 Members of Parliament in respect to the 'first Motion'. That is the purpose of this Petition.

My answer to issue 5 is : No. I then, consider issue 1.

1. The evidence established that there are typing errors or incorrect references of the provisions of the Constitution in the content of the Motion of No Confidence. The evidence established also that the Respondent/Speaker acknowledged receipt of the Notice of the Motion, and ruled that it was in order and advised that the motion be placed on the agenda for the 2001 Ordinary Session of Parliament to be debated on Tuesday 3rd April 2001. Whatever reason may be in the mind of the Respondent/Speaker on Tuesday 3 April 2001 before the closing of Parliament by the Respondent, the irregularities are of technical nature, which could not vitiate the substance of the 'first Motion' and as such could not breach the Standing Rules and I so rule.

My answer to issue 1 is: No. I deal, next with issue 2.

(i) Whether the Respondent/Speaker was correct in closing Parliament; or

(ii) Whether the debate should have been adjourned 7 days for amendment.

The evidence in this case are overwhelming. It is not for the Court to interfere in the internal arrangements of the Parliament but members of Parliament can never act so as to deny to others (including the Prime Minister or other members of Parliament) rights, which are provided under the Constitution. Article 43 (2) provides 'Parliament may pass a motion of No Confidence in the Prime Minister. At least 1 week's notice of such a motion will be given to the Speaker and the motion must be signed by one sixth of the members of Parliament, the Prime Minister and other Ministers shall cease to hold office forthwith but shall continue to exercise their functions until a new Prime Minister is elected.' Once a motion has been accepted and a date has been set down for its hearing the Speaker is not competent to close Parliament on the basis that there are typing errors or incorrect references of the provisions of the Constitution in the content of the Motion of No Confidence. And by doing so, in effect, is denying members of Parliament a constitutional right.

The following are cases in support of this view: Hon. Maxime Carlot Korman MP & others v. Hon. Nipake Edward Natapei MP, Speaker of Parliament & Others, Civil Case 1 68 of 1 997. See Appeal Case of the President of the Republic of Vanuatu v. Hon. Maxime Carlot Korman MP & Others. Appeal Case No. 8 of 1997.

My answer to issue 2 (i) is: No.

The best option is for the Respondent/Speaker to adjourn the debate for 7 days to allow the Petitioners to rectify the technical irregularities so that Parliament can proceed with the first Motion but not to close the Parliament as he did.

My answer to issue 2 (ii) is Yes.

I now finally deal with issue 3. The Respondent/Speaker should re-summon Parliament to debate the first Motion of No Confidence. This follows directly from my answer to issue 2.

My answer to issue 3 is: Yes. On the basis of the above considerations, I have no difficulty to grant the relief sought in the Petition.

DECLARATIONS AND/OR ORDERS

The Court hereby grants the following Declarations and/or Orders:

1. That leave to apply for the Writs of Mandamus and Certiorari is granted.
2. That the decision and/or ruling by the Respondent/Speaker made on 3rd April 2001 to prevent parliament from debating and dealing with the Motion of No Confidence is invalid, void and of no effect.
3. That Parliament is still meeting in its First ordinary Session in 2001 and that the decision made by the Respondent/Prime Minister on 3rd April 2001 to close Parliament's First ordinary Session in 2001 is invalid, void and/or no effect.
4. That an order quashing the Respondent/Speaker's ruling that Parliament refrain from debating and voting on the Motion.
5. That an Order directing the Respondent/Speaker forthwith to re-convene Parliament and place before the Parliament the Motion so that Parliament can debate and deal with the Motion in accordance with the law and Standing Orders of Parliament.
6. That the costs are costs in cause

Dated at Port Vila, this 6th day of April 2001.

Date of hearing: 3 - 4 April 2001 Date of Judgement: 6 April 2001

APPENDIX D: DRAFT PROCEDURES FOR THE PUBLIC ACCOUNTS COMMITTEE ESTABLISHMENT OF PUBLIC ACCOUNTS COMMITTEE

1. ESTABLISHMENT AND LIFE OF PUBLIC ACCOUNTS COMMITTEE

- (1) At the commencement of a Parliament, a Public Accounts Committee shall be established by resolution of Parliament, upon the Prime Minister giving notice of a motion to establish such a committee.
- (2) The membership of the Public Accounts Committee shall be confirmed to Parliament by the Prime Minister making a statement, pursuant to Standing Order 19, containing the Chairperson and membership appointed pursuant to the Expenditure Review and Audit Amendment Act 2000.
- (3) The Public Accounts Committee continues in existence until the dissolution of Parliament.

2. CHANGES IN MEMBERSHIP

A change in the membership of the Public Accounts Committee shall be confirmed to Parliament by the Prime Minister making a statement, pursuant to Standing Order 19, containing the change in membership made, pursuant to the Expenditure Review and Audit Amendment Act 2000.

FUNCTIONS OF THE PUBLIC ACCOUNTS COMMITTEE

3. ECONOMIC AND FINANCIAL POLICY STATEMENT AND BUDGET POLICY STATEMENT

- (1) The Public Accounts Committee must report on the economic and financial policy statement and budget policy statement within six weeks of the publication of the budget policy statement.
- (2) In considering the statements the Committee will consider submissions made under section 11(3) of the Public Finance and Economic Management Act 1998.
- (3) The Minister responsible for Finance will attend the committee for consideration of the statements, if requested.

4. EXAMINATION OF ESTIMATES

- (1) Following the presentation by the Minister responsible for Finance of the Annual Appropriation Bill, the statement of the estimates stands referred to the Public Accounts Committee.
- (2) The Public Accounts Committee may examine an estimate contained in the statement of estimates itself or refer it to any other committee for examination.
- (3) The Committee must report to Parliament on its examinations of the estimates within three months of the presentation of the Annual Appropriation Bill.

- (4) Notwithstanding Standing Order 51, the Committee may recommend in its report a proposed change to an estimate it has examined. Such a recommendation must specify the appropriation or appropriations within the estimate that it is proposed to alter.

5. EXAMINATION OF SUPPLEMENTARY ESTIMATES

- (1) Following the presentation of a supplementary Appropriation Bill, any supplementary estimates stand referred to the Public Accounts Committee.
- (2) Notwithstanding Standing Order 51, the committee may recommend in its report a proposed change to a supplementary estimate it has examined. Such a recommendation must specify the appropriation, or appropriations within the supplementary estimate that it is proposed to alter.

6. FISCAL STRATEGY REPORTS AND ECONOMIC AND FISCAL UPDATES

- (1) The Public Accounts Committee may report on the fiscal strategy report, the current year fiscal update; the economic and fiscal update and the half-yearly economic and fiscal update laid before Parliament each year.
- (2) If no report is made, the committee must, in its report on the estimate for the Ministry of Finance and Economic Management, report on whether the Minister responsible for Finance has complied with these reporting requirements contained in the Public Finance and Economic Management Act 1998.

7. ALLOCATION OF RESPONSIBILITY FOR CONDUCTING PERFORMANCE REVIEWS

- (1) As soon after the commencement of the financial year as it thinks fit, the Public Accounts Committee may allocate to other committees (or retains for itself) the task of conducting a review of the performance in the previous financial year of each individual ministry or Office of Parliament.
- (2) The annual report and financial statements, prepared pursuant to section 20(1)(h) of the Public Service Act 1998 and section 28 of the Public Finance and Economic Management Act 1998, of each ministry and Office of Parliament, when tabled in Parliament, stand referred to the committee conducting the review of the performance of that ministry or Office of Parliament.

8. CONDUCT OF REVIEWS OF PERFORMANCE

- (1) The Public Accounts Committee must, on or before the first sitting of the August meeting of Parliament in each year, report to Parliament on the State's annual financial statements as at the end of the previous financial year and the report of the Auditor General thereto.
- (2) The Public Accounts Committee must, on or before the first sitting of the August meeting of Parliament, conduct and finally report to Parliament on a review of the performance of every ministry and Office of Parliament it has retained for itself.

- (3) In reviewing the State's financial statements and the performance of ministries and Offices of Parliament, the Public Accounts Committee must report on:
- (a) compliance with all relevant reporting requirements contained in the Public Finance and Economic Management Act 1998
 - (b) adherence to fiscal discipline
 - (c) compliance with statements of responsibility requirements contained in section 31 of the Public Finance and Economic Management Act 1998
 - (d) reliability of systems and procedures and the integrity of information
 - (e) efficiency and effectiveness of financial performance and in the management of public funds.

9. OTHER MATTERS

- (1) The Public Accounts Committee may consider Bills, referred in accordance with Standing Order 29(1), or other matters referred to it by Parliament or required under the Expenditure Review and Audit Act.
- (2) When considering a Bill the Public Accounts Committee will examine the Bill to determine whether the Bill should be passed. The committee may recommend amendments that are relevant to the subject matter of the Bill; are consistent with the principles and objects of the Bill and otherwise conform to Standing Orders and the practices of Parliament.
- (3) The Committee may inquire into matters related to: audit of the State's and departmental financial statements, Government finance, revenue and taxation, business development, commerce, insurance and superannuation and the performance and current operations of Government-owned corporations.

MEETINGS OF THE PUBLIC ACCOUNTS COMMITTEE

10. MEETINGS

- (1) The first meeting of the Public Accounts Committee is held at a time appointed by the Chairperson. The Committee adjourns until the time it decides that it should next meet. In the absence of a time decided by the Committee for its next meeting, the Chairperson, by notice in writing, decides when it should next meet.
- (2) The Committee may not meet during a sitting of Parliament.

POWERS OF THE PUBLIC ACCOUNTS COMMITTEE

11. SEEKING EVIDENCE

- (1) The Chairperson of the Public Accounts Committee may, on behalf of the Committee, request any person to attend and give evidence before the Committee.
- (2) The Chairperson may, on behalf of the Committee, request that papers and records that are relevant to its proceedings be produced.

12. EXERCISE OF POWER TO SEND FOR PERSONS, PAPERS AND RECORDS

The Public Accounts Committee shall have the power to send for persons, papers and records. The Committee:

- (1) may direct that any person be summoned to attend and be examined and give evidence before the Committee, and
- (2) may direct that any person be summoned to produce papers and records in that person's possession, custody or control, that are relevant to the Committee's proceedings. Any such summons is signed by the Chairperson and served upon the person concerned under the chairperson's direction.

13. SUBCOMMITTEES

- (1) A subcommittee may be appointed by the Public Accounts Committee.
- (2) The Committee may prescribe rules for the conduct of subcommittee proceedings provided that these rules are consistent with Standing Orders. Subject to any such rules, the same rules for the conduct of proceedings in a subcommittee apply as apply to the Public Accounts Committee.

CHAIRPERSON AND DEPUTY CHAIRPERSON

14. CHAIRPERSON

- (1) The Chairperson of the Public Accounts Committee is appointed pursuant to the Expenditure Review and Audit Amendment Act 2000.
- (2) The Chairperson shall have the same powers and duties as the Speaker, except that the Chairperson may participate in debate and vote.

15. ABSENCE OF CHAIRPERSON

- (1) If the Chairperson is not present at the commencement of a meeting, the Public Accounts Committee may elect a member of the Committee to chair that meeting and exercise the powers of the Chairperson in respect of the meeting.

CONDUCT OF PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE

16. CONDUCT OF PROCEEDINGS

Subject to the express provisions of these sessional orders, the Public Accounts Committee shall establish its own rules of procedure but shall observe the Standing Orders of Parliament in so far as they may be applicable.

17. NOTICE OF MEETING

A notice informing members of the Public Accounts Committee of a meeting of the Committee is to be circulated by the clerk of the committee no later than the day before the meeting. The notice must contain a summary of the items of business proposed to be dealt with at the meeting.

18. GIVING NOTICE OF BUSINESS

- (1) Members of the Public Accounts Committee may give notice of business or motions to be considered by the Committee either orally at a meeting of the Committee or in writing to the clerk of the committee.
- (2) Notices given at a meeting and notices given to the clerk of the committee before 11.30 am on the day before a meeting are placed on the agenda for the next meeting of the Committee
- (3) Nothing in this Standing Order affects the Chairperson's power to rule on whether a proposed notice is in order.

19. NAMES OF MEMBERS PRESENT

The names of the members of the Public Accounts Committee present at a meeting are recorded in the Committee's minutes.

20. QUORUM

- (1) The quorum of the Public Accounts Committee is four members.
- (2) If there is no quorum present within 10 minutes of the time for a meeting to commence, the meeting is adjourned. If there is no quorum present during a meeting, the meeting is suspended for up to 10 minutes and, if no quorum is formed, the meeting is adjourned.

21. MEMBERS MAY BE PRESENT

- (1) Subject to this Standing Order, any member of Parliament (not being a member of the Public Accounts Committee) may attend any meeting of the Public Accounts Committee but can participate in the proceedings only by leave of the Committee.

22. ASSISTANCE

The Public Accounts Committee may seek the assistance of persons as advisers to the Committee and may invite any person to be present at any meeting of the Committee to assist it in its consideration of any matter.

23. VOTING

- (1) A member may require that the respective votes or abstentions of each member present on a question put to the Public Accounts Committee be recorded in the Committee's minutes.
- (2) In the event of there being a tied vote, the Chairperson shall have a casting vote as well as a deliberative vote.

24. DISORDER

- (1) The Chairperson may order any visitor to withdraw from a meeting if that person's conduct is disorderly.
- (2) The Chairperson may order any member (not being a member of the Public Accounts Committee) to withdraw from a meeting if that member's conduct is disorderly.
- (3) The Public Accounts Committee may resolve to exclude a member of the Committee from its meeting if that member's conduct is highly disorderly. The member may be excluded for up to the remainder of the meeting held on that day.

PUBLIC ACCOUNTS COMMITTEE HEARING OF EVIDENCE

25. ATTENDANCE WHILE EVIDENCE BEING HEARD

The proceedings of the Public Accounts Committee during the hearing of evidence on any matter, which is the subject of investigation by the Committee, are open to the public.

26. PRIVATE EVIDENCE

- (1) Some or all of the evidence to be given to the Public Accounts Committee may, by leave, be heard or received in private.
- (2) The Committee may require all visitors or any visitor to withdraw from a meeting while evidence is being heard in private.
- (3) Evidence heard or received in private is confidential to the Committee until it reports to Parliament.

27. EVIDENCE THAT MAY CONTAIN ALLEGATIONS

At any stage during a proceeding of the Public Accounts Committee, the committee may consider hearing in private evidence that contains an allegation that may seriously damage the reputation of a person. The Committee may also invite that person to be present during the hearing of such evidence and give that person the opportunity to respond.

28. CONFIDENTIALITY OF EVIDENCE

- (1) Before giving evidence, a witness will be informed that he or she can make application for any or all of the witness's evidence to be heard in private.

- (2) A witness must give reasons for any such application. At any time during the hearing of a witness's evidence the witness may make application for further evidence from the witness to be heard in private.
- (3) Before giving evidence in private, a witness will be informed that the evidence will become available when the Public Accounts Committee reports to Parliament.

29. MATTERS OF CONCERN BEFORE GIVING EVIDENCE

A person who is to appear before the Public Accounts Committee may raise any matters of concern relating to that evidence with the clerk of the committee before appearing before the Committee. Any such matters will be brought to the attention of the Committee.

30. RELEASE OF WRITTEN SUBMISSIONS

- (1) The Public Accounts Committee may make a written submission to it available to the public at any time after receiving it.
- (2) A written submission (if not already made available) becomes available to the public on the Committee hearing oral evidence in public from the witness who made the submission.

31. EVIDENCE ON OATH

- (1) The Public Accounts Committee may order any person to take an oath or make an affirmation before giving evidence to it.
- (2) When a person gives evidence on oath or affirmation, the oath or affirmation is administered by the clerk of the committee.

32. CONDUCT OF EXAMINATION

- (1) The examination of witnesses is conducted as the Chairperson, with the approval of the Public Accounts Committee, directs.
- (2) The Chairperson, and every member through the Chairperson, may put questions to a witness.

33. WITNESSES' EXPENSES

- (1) No expenses shall be paid to any witness or proposed witness except with the permission of the Speaker.
- (2) Neither the Public Accounts Committee, its Chairperson, members or any other person may give any undertaking, promise or assurance to any person that any expenses of a witness or proposed witness will be paid out of public money without first obtaining the authority of the Speaker.

34. RELEVANCE OF QUESTIONS

- (1) The Chairperson will take care to ensure that all questions put to a witness are relevant to the Public Accounts Committee's proceedings and that the information sought by those questions is necessary for the purpose of those proceedings. A witness may object to a question on the ground that it is not relevant. The Chairperson will then determine whether it is relevant to the Committee's proceedings.

35. OBJECTIONS TO ANSWER

Where a witness objects on any ground to answering a relevant question put to the witness, the witness will be invited to state the ground upon which objection to answering the question is taken.

36. COMMITTEE CONSIDERATION OF OBJECTIONS

- (1) Where a witness objects to answering a question on any ground, the Public Accounts Committee, unless it decides immediately that the question should not be pressed, will then consider in private whether it will insist upon an answer to the question, having regard to the importance to the proceedings of the information sought by the question.
- (2) If the Committee decides that it requires an answer to the question, the witness will be informed of that decision, and is required to answer the question.
- (3) The Committee may decide that the public interest would best be served by hearing the answer in private.
- (4) Where a witness declines to answer a question to which the Committee has required an answer, the Committee may raise the matter as a matter of privilege pursuant to Standing Order 43.

37. TRANSCRIPTS OF EVIDENCE

- (1) The Public Accounts Committee may decide to record and, if it thinks fit, transcribe evidence given to it. Reasonable opportunity will be afforded to witnesses to make corrections of errors of transcription in any transcript of their evidence.

38. RETURN OF EVIDENCE.

The Public Accounts Committee may return or expunge from any transcript of proceedings any evidence or statement that it considers to be irrelevant to its proceedings, offensive or possibly defamatory.

39. IRRELEVANT OR UNJUSTIFIED ALLEGATIONS

Where a witness gives evidence that contains an allegation that may seriously damage the reputation of a person and the Public Account Committee is not satisfied that that evidence is relevant to its proceedings, the Committee will give consideration:

- (a) to returning any written evidence and requesting that it be resubmitted without the offending material,

- (b) to expunging that evidence from any transcript of evidence, and
- (c) to seeking an order of Parliament preventing the disclosure of that evidence.

40. ACCESS TO INFORMATION

The Public Accounts Committee will give a witness reasonable access to any material or other information that the witness has produced to the committee.

41. PERSONAL INFORMATION

- (1) Any person whose reputation may be seriously damaged by proceedings of the Public Accounts Committee may request from the clerk of the committee a copy of all material, evidence, records or other information that the Committee possesses concerning that person.
- (2) The Committee considers any such request and may, if it considers it to be necessary to prevent serious damage to that person's reputation, furnish such material.
- (3) The Committee may furnish such material in a form different from that requested if to provide it in the form requested would impose undue difficulty, expense or delay.

INFORMATION ON PUBLIC ACCOUNTS COMMITTEE PROCEEDINGS

42. CONFIDENTIALITY OF PROCEEDINGS AND REPORTS

- (1) The proceedings of the Public Accounts Committee or a subcommittee other than during the hearing of evidence are not open to the public and remain strictly confidential to the Committee until it reports to Parliament.
- (2) A report or a draft of the report of the Public Accounts Committee or a subcommittee is strictly confidential to the committee until it reports to Parliament.
- (3) Paragraphs (1) and (2) do not prevent-
 - (a) the disclosure, by the Committee or by a member of the Committee, of proceedings, a report or a draft report to a member of Parliament or to the Clerk in the course of their duties, or
 - (b) the disclosure of proceedings, a report or a draft report in accordance with these sessional orders.

43. INFORMATION ON THE PUBLIC ACCOUNTS COMMITTEE'S PROCEEDINGS

- (1) The Chairperson of the Public Accounts Committee or a subcommittee may, with the agreement of the Committee, make a public statement to inform the public of the nature of the Committee's consideration of a matter.
- (2) The Committee or subcommittee may make its proceedings available to any person for the purpose of assisting in the Committee's consideration of a matter.

REPORTS OF THE PUBLIC ACCOUNTS COMMITTEE

44. INTERIM REPORTS

The Public Accounts Committee may from time to time make an interim report informing Parliament of some only of its conclusions on a matter before it or of the progress of its investigation into a matter.

45. SPECIAL REPORTS

The Public Accounts Committee may from time to time make a special report to Parliament seeking authority from Parliament to do something, or seeking guidance from Parliament on some procedural question that has occurred in the Committee, or informing Parliament of some other matter connected with its proceedings it considers should be reported to Parliament.

46. MINORITY VIEWS

The Public Accounts Committee may, in its report, indicate the differing views of its members.

47. FINDINGS

As soon as practicable after the Public Accounts Committee has determined any findings to be included in a report to Parliament, and prior to the tabling of the report, any person affected by the report must be provided with the report and afforded 28 days to provide written submissions to the Committee. The Committee will take such submissions into account before making its report to Parliament.

48. REPORTS TO BE SIGNED

A report of the Public Accounts Committee as agreed to by the Committee is signed by the Chairperson, on behalf of the Committee, or by some other member of the Committee authorised to do so by the Committee.

49. DAY FIXED FOR PRESENTATION OF REPORTS

When a day is fixed for the tabling of a Public Accounts Committee report, the final report must be made on or before that day, unless Parliament grants further time.

50. TABLING OF REPORTS

- (1) Notwithstanding Standing Order 20, a report of the Public Accounts Committee is tabled by delivering it to the Clerk on any working day. A record of the reports of the Committee so tabled shall be entered in the Minutes of the next sitting.
- (2) Once a report has been tabled it is published under the authority of Parliament.

51. REPORTS TO BE DEBATED

Following their tabling, reports of the Public Accounts Committee shall be debated by Parliament as follows

- (a) a report on an economic and fiscal statement and a budget policy statement in a general debate in the first week of the November meeting of Parliament
- (b) any report on a fiscal strategy report, a current year fiscal update, an economic and fiscal update or a half-yearly economic and fiscal update in a general debate to be held within four sittings of the tabling of the Government's response to any recommendations contained in the report
- (c) a report on an estimate or supplementary estimate during the Committee of the whole stage of an annual Appropriation Bill or supplementary Appropriation Bill
- (d) a report on the State's annual financial statements and the Report of the Auditor-General thereto in a general debate to be held within four sittings of the presentation of the Government's response to any recommendations contained in the report
- (e) a report on the annual review of the performance of a ministry or Office of Parliament during the general debate on the State's annual financial statements
- (f) a report on a Bill in a general debate prior to the Committee of the whole stage of the Bill
- (g) a special report in an urgent debate under Standing Order 21
- (h) an interim report or any other report at the next available general debate.

52. DEBATE OF PUBLIC ACCOUNTS COMMITTEE REPORTS

- (1) In a general debate, held pursuant to Standing Order 37, on a report of the Public Accounts Committee, the Chairperson moves a motion relevant to the report and speaks first in the debate. In the absence of the Chairperson, any other member of the Committee may move the motion and speak first.
- (2) During the Committee of the whole stage of an Appropriation Bill, the Chairperson of the Public Accounts Committee may speak first on the question proposed on an estimate that has been reported upon by the Committee.
- (3) During the Committee of the whole stage of an Appropriation Bill, a question will be put on any amendment to an estimate recommended in the Public Accounts Committee's report on that estimate.

53. GOVERNMENT RESPONSES TO PUBLIC ACCOUNTS COMMITTEE REPORTS

- (1) The Government must, not more than 90 days after a Public Accounts Committee report has been tabled, table a paper in Parliament responding to any recommendations of the Committee that are addressed to it, except

recommendations dealing with non-compliance action required to be reported upon under section 16(2A)(a) of the Expenditure Review and Audit Act 1998 as amended by the Expenditure Review and Audit Amendment Act 2000.

- (2) No response under this Standing Order is required in respect of Public Accounts Committee reports on Bills, estimates or supplementary estimates.

APPENDIX E: CONSULTANT

Mr Michael Morgan is a research scholar in the Division of Pacific and Asian History, Research School of Pacific and Asian Studies, Australian National University. He was previously employed as an IT recruitment consultant in Sydney. Mr Morgan has over two years experience working in Vanuatu. During 1995 he was employed by PacNews, the Pacific Islands Broadcast Association's Pacific News Bureau. Between 1999-2000 he conducted doctoral research in Northern Vanuatu, focussing on constituency politics. He is a fluent speaker of Bislama, Vanuatu's neo-Melanesian variant. This is his first mission for the United Nations Development Programme.