

United Nations Development Programme (UNDP)
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**SOUTH PACIFIC JUDICIAL CONFERENCE
PACIFIC REGIONAL JUDICIAL TRAINING PROJECT**

REPORT

South Pacific Judicial Conference
PACIFIC REGIONAL JUDICIAL TRAINING PROJECT

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SOUTH PACIFIC JUDICIAL CONFERENCE
PACIFIC REGIONAL JUDICIAL TRAINING PROJECT

Preface

I hope that this report is useful in addressing the many challenges which exist in training the judicial service of the Pacific region.

The challenge of the current project is substantial. The needs for judicial training throughout the Pacific are profound and widespread. A substantial gap exists in adequately trained and experienced judicial service personnel.

The benefits of investing in training to improve judicial performance will be substantial in terms of enhancing governance and the rule of law, consolidating trade and investment security, and protecting fundamental human rights.

Attainment of these objectives ideally requires a five-year term. Meaningful improvements in judicial performance resulting from training activities will be measurable over this period. Donor investment strategies to improve judicial competence that rely on shorter term training interventions, such as a three-year term, are both viable and feasible but will be of more limited value.

Developing judicial competence is a complex process requiring a significant investment of time, as well as expertise and expense. This training process - and, in particular, the medium term components for retraining the lay magistracy - should indeed be ongoing and nationally sustained beyond the term of any project intervention

I have written this report for a variety of readers, each with potentially different needs: donors, judges, educators, ministries of finance in Pacific Island nations and other stakeholders in the judicial services of the region. For this reason, I have prepared the report in two parts: for donors and others pressed for time, Part 1 presents the "*Project Document*". This is essentially an executive summary of the issues salient for downstream multilateral and bilateral funding. For others, Part 2 presents the "*Annexes*" containing the detailed arguments and justification for the program of judicial training proposed in this report.

I thank the United Nations Development Programme (UNDP) for providing this rare opportunity to develop a comprehensive strategic approach to judicial training and development. It has been a privilege and a pleasure for me to undertake this work.

Livingston Armytage
Wahroonga, Sydney
4 November 1998.

Definitions

Business plan –detailed and comprehensive approach to organising and implementing a program of judicial training to meet the needs in the region, outlined in Section 3 of this document, variously described by stakeholders as a strategic plan, a management plan and/or an action plan.

Competence – aggregate of knowledge, skills and attitudes required to perform professional and occupational responsibilities to a designated standard of proficiency.

Court - forum for the administration of European-based justice, as distinct from customary law and practices (unless specified to the contrary).

Court officer - non-judicial court staff, including registrars, administrators and clerks of court, exercising para-judicial support and administrative roles.

Customary law - locally indigenous customary law, as distinct from European-based law.

Education committee – the ongoing meeting of judges, magistrates and court officers appointed to conduct judicial training at a national level.

Education council – the ongoing meeting of judges, magistrates and court officers appointed by the South Pacific Judicial Conference (SPJC) to coordinate and supervise the delivery of judicial training at a regional level.

European-based law - introduced colonial and post-colonial law (specifically British, Australian, American or New Zealand “common law,” or French “civil law”), as distinct from locally indigenous customary law.

Judicial officer - duly qualified law-trained judge, justice, magistrate, master or commissioner exercising a European-based legal jurisdiction, as distinct from a lay appointee or a court officer exercising para-judicial duties.

Judicial service personnel - generic description of judicial officers and court officers serving within European-based court systems of the region.

Lay magistrate or justice - appointee exercising (at least in some part) European-based legal jurisdiction who are not qualified with an accredited degree in law, are not admitted to legal practice and who lack a minimum of five years professional legal experience; specifically excludes appointees exercising solely customary law jurisdiction who fall beyond the terms of reference of this project.

List serve - communication facility to enable accessible and ready networking and communication between regional and national judicial training coordinators, specifically including “electronic” media (such as email, bulletin boards, news groups and virtual conferencing) in addition to more conventional systems of communication by letter, telephone and fax.

Project document - Part 1 of this report, providing an executive summary of the program of judicial training outlined in full in the Annexes contained in Part 2.

South Pacific Judicial Conference (SPJC) –the ongoing conference judges, magistrates and court officers of the Pacific region.

Pacific region - inclusive and flexible description of those Pacific island nations (PIN's) of Melanesia, Polynesia and Micronesia which claim this identity.

Training - includes the career-long continuum of vocational education, occupational training and continuing professional development.

PART 1

PROJECT DOCUMENT

Part 1 - Project Document

1. Introduction

The challenge of the current project is substantial. The needs for judicial training throughout the Pacific region are profound and widespread. A substantial gap exists in adequately trained and experienced judicial service personnel.

This gap is at present being filled by experienced expatriate experts in senior judicial or administrative roles, and by a fragile nucleus of extremely competent and dedicated indigenous professionals.

The fundamental deficits in the professional competence of lay justices and magistrates dispensing judicial services must be addressed for good governance to operate throughout the region. It is distressing and, on occasion, alarming to observe judicial service personnel undertaking roles for which they have received little or no training whatsoever.

But, this sobering assessment is far from bleak. The graduation of the first cohort of lawyers from the University of the South Pacific's law program in mid-1998 is a significant milestone which will transform legal capacity throughout the region. It may be realistically hoped that in one decade – at most, two - there will be an emerging cadre of locally experienced lawyers from whom competent judicial appointments can be drawn.

The central challenge of this project is, therefore, to professionalise the judicial service during the intervening 20-year period. In essence, this requires the introduction of appropriate frameworks of legal education and professional training for all officers of the judicial service, supported by comprehensive and methodical continuing judicial education and development programs.

a. Project background

The principal findings and recommendations of the *Report on the findings of the judicial training needs feasibility study for the Chief Justices of the South West Pacific*, (hereafter the "Grimes Report"), provide the threshold for this study. That report, which was funded by AusAID, was undertaken for the chief justices of the Pacific in 1995/6, and subsequently endorsed by the 12th South Pacific Judicial Conference in 1997. The purpose of this current report is to build on that work and to focus on developing training projects capable of funding by donors and immediate implementation.

The *Grimes Report* is universally accepted as validly defining the broad needs for judicial training throughout the Pacific region. Having said that, there is much additional work to be undertaken in more precisely defining specific training needs, and in developing a strategic framework and approach to addressing those needs of highest priority. Most of that work is undertaken here but, of course, the major work of conducting a regional training program yet remains to be undertaken.

The principal findings of the Grimes Report can be summarised as follows:-

- a structured approach to judicial training throughout the region is required to replace the existing approach which has historically been piecemeal, and lacking planning;
- a regional focus for the development and coordination of training is required;
- training programs should be delivered within the region and, where ever possible, within the individual jurisdiction using local language;
- training should be organised and delivered by the people from within the jurisdictions;
- training is needed at a very elementary level, as well as at a more sophisticated plane;
- the magistracy and court staff need systematic training in law and procedure;
- all judicial service officers need training in computers; and,
- education of court officers and staff should be included in any training program.

The South Pacific Judicial Conference endorsed the following recommendations for training:-

- *Structure* creation of a judicial training centre;
- *Short-term* preparation of bench books for the subordinate courts;
preparation of training manuals on law and procedure for court administrators;
preparation of training manuals on computer technology;
in-country training courses to supplement the bench book/manuals;
establishment of an email training “list serve”;
development of a regional orientation programme;
organisation of skills workshops;
creation of regional faculty of training experts;
appointment of national training officers;
holding of regional conference on judicial training;
- *Long-term* establishment of a law reporting service;
development of a model computer system for court records;
standardisation of qualifications;
development of a structures training programme building on short term achievements; and,
establishment of a regional Council of Legal Education.

In broad terms, this report seeks to put into practical effect the recommendations for judicial training made by the *Grimes Report*.

b. Organisational setting

The terms of reference for this project were defined jointly by members of the education sub-committee of the South Pacific Judicial Conference (SPJC) and donors, specifically the United Nations Development Program (UNDP), the Australian Agency for International Development (AusAID), the Department of Foreign & International Development (DFID, formerly British ODA), the New Zealand Office of Development Assistance (NZODA) and the Asian Development Bank (ADB).

These terms of reference are:

- a. to finalise a prioritised business plan for the next three years with indicative costings and coordinated regional judicial training activities to be carried out through a regional judicial education centre, in a form acceptable to donors to consider for funding.
- b. to consult, liaise and negotiate with members of the judiciary in each country on the appointment of a national judicial training coordinator, and,
- c. to implement an electronic mailing list facilitating communication between these judicial training coordinators.

The terms of reference are outlined in detail in Section 1.3 of this report.

c. Project justification

The South Pacific region is characterised by strong customary traditions and kinship, acute geographic dispersion, significant cultural diversity, smallness and resource shortages, an imperative to develop economic and trading capacity, very recent nationhood bringing with it varying expectations of national government, and divergent expectations of regional identity. All of these factors impose unique pressures on the judiciary of the region to sustain the rule of law. In this environment, the link between good governance, rule of law and the capacity to deliver transparent judicial services is critical.

The justification for funding judicial training in the Pacific is threefold:

- a) The judiciary needs to be strengthened in exercising its role as guardian of the principles of good governance, accountability and transparency already endorsed by Heads of Government at the South Pacific Forum;
- b) Strengthening the rule of law promotes economic development by protecting financial investment and trade.
- c) The courts protect the citizen from political oppression, commercial exploitation and the abuse of fundamental human rights, notably the prevalence of violence against women.

At the present time, the judicial service lacks the professional competence to discharge these roles with efficiency and effectiveness. A comprehensive strategy of training provides an essential and viable means to strengthen institutional capacity to administer judicial services and to dispense this fundamental aspect of social governance throughout the region.

The needs for judicial training are identified and assessed in Section 2.1. These needs are, for the most part, extremely basic. They relate to ignorance of substantive law and court procedure, unfamiliarity with essential judicial skills, lack of judicial outlook and inadequate judicial administration. Analysis reveals that some of these needs are generic to all judicial service personnel. Most however can be classified into three major categories: for court officers, unqualified lay magistrates and justices, and qualified judicial officers. Additional and distinctive needs exist for expatriate judicial officers and chief judicial officers, although these are of relatively lower priority.

Client populations

As best can be calculated, the total client population is about 750 judicial service personnel throughout the region, comprising some 230 law-trained judicial officers, with approximately similar numbers of lay justices and magistrates, and court officers. The respective populations of need for judicial training throughout the Pacific region are quantified in Section 2.2 of the report.

In essence, there are three classifications of needs for judicial training which exist throughout the region. These are to:-

- a. train lay justices and magistrates
- b. induct new judicial appointees with formalised training and on/off-the-bench support
- c. support and develop all judicial service personnel with continuing professional education, training and development.

d. Project strategy

In order to address these needs, this report recommends funding for a comprehensive program of judicial training which comprises three development strategies: building local capacity, producing training activities, and coordinating related legal strengthening projects.

Strategy 1 - Capacity-building

This strategy establishes the *process* to manage the delivery of training activities by creating the operating structures and system of governance to direct, manage and conduct judicial training throughout the region. Transferral of expertise during the start-up phase of the project is provided in the adjacent activities strategy.

- See (c) "*Project Management*" below, in relation the establishment and roles of:

- South Pacific Judicial Conference (SPJC)
- Council of Judicial Education (CJE)
- Pacific Judicial Training Secretariat (PJTS)
- National Training Coordinators (NTCs)
- Judicial Education Committees (JECs)
- Faculty of judicial trainers (FJT)

Strategy 2 – Producing Training Activities

The second strategy *delivers* the activities and outputs of this project, being the training products and services which are developed and supplied to judicial service personnel throughout the region to meet the training needs identified in Section 2 of this report. These activities are the conference, course and publication services outlined in detail in Sections 4 and 5.

The content of training activities is determined by these needs and includes substantive law, court procedure, judicial skills, ethics and conduct, judicial administration management, and inter-disciplinary topics. The level of instruction ranges from orientation to updates, regular networking, problem-solving, specialist-advanced and refresher levels of training.

The educational methodologies for formalised training are *information-based*, focusing on the transfer of information and the integration of that information into knowledge and understanding, and *process-based* focusing on the consolidation of understanding and on the application of that knowledge and understanding to performance in practice.

The issue of local and regional delivery of services should balance educational effectiveness and financial sustainability. Training in substantive law (for example, through conferences, seminars and bench books) should most appropriately be conducted nationally; whereas development of skills and disposition (for example, judicial orientation, and case management skills workshops) should more usefully be conducted regionally.

Strategy 3 – Coordination of legal sector strengthening projects

For this training to be effective in judicial institutional strengthening, there is a need to *coordinate* the delivery of strategies for strengthening the legal sector within which the judiciary operates. Without integration of these related strategies, this project will be of limited utility and effectiveness.

Some of the more crucial of these associated strategies, which are discussed in detail in Section 3.3 of this report, include:-

- a. Structural reform
- b. Law reform, development and harmonisation
- c. Judicial appointment
- d. Information management
 - Court recording and law reporting
 - Communication technology
 - Library services and access to the law
 - File management
- e. Legal institutional strengthening, legal education and professional training
- f. Access to justice
- g. Community “legal literacy” education
- h. Forensic capability

Multilateral and bilateral donors share an interest in establishing a mechanism to ensure the coordination, integration and continuity of legal sector institutional strengthening projects, and specifically judicial training activities, throughout the region.

Risks

No training project can operate in a vacuum. The effectiveness and sustainability of these strategies is affected by a number of factors which may delay or prevent the achievement of project outputs and objectives. While none of these risks is such as might predictably call into question the viability of this project, some do however have a significant potential to affect its operation and implementation.

Foremost in any inventory of risks is the underpinning decision to embark on a regional approach. Attractive as it may be financially, the principal risk of this project lies in the assumption that an aggregated regional approach to judicial training is educationally sound

and jurisprudentially feasible. Thus, a major challenge of this project is to find the critical balance between effective educational servicing and fundability. What makes this risk so significant is the extraordinary diversity of the region which threatens to defy the aggregation inherent in a regional or cooperative approach.

Diversity is the characterising quality of the Pacific. Diversity exists in race, culture, custom, history, tradition, language, size, wealth, political development and, of course, law. The legal systems of Pacific nations are likewise diverse and pluralistic. Customary law remains a central organising feature of many societies within the region on a day to day basis, different from country to country, and village to village. Differences of approach between customary and introduced legal systems impose fundamentally complex tasks on judicial officers to reconcile the customary approach.

European-based law overlays and co-exists with customary law. This introduced law is itself sub-categorised into the Anglophone and Francophone systems. The common law approach prevails in most island nations throughout the region. Even within this domain, there are discernible spheres of influence reflecting different English, American, New Zealand and Australian traditions, precedence and approach. The French “civil” approach continues to operate in a number of Pacific nations. Differences in the common law and civil law approaches to justice are quite fundamental in structures of legal systems, processes for developing law, judicial selection and appointment procedures, nature of judicial roles, and the availability, structure and purpose of judicial training.

Added to this is the diversity of specific training needs of participants in the justice system, which have been identified in Section 2 of this report. The variety of these needs is determined by national identity, jurisdiction of court, professional role and prior training.

These risks of diversity are, however, certainly surmountable. The earlier analysis of the needs for judicial training reveals an essential homogeneity throughout the region. Within the British-based jurisdictions, there is a good deal of commonality in the needs to develop an understanding of legal process, the judicial role, and the fundamental skills and disposition of judging. Added to this, the existence of the South Pacific Forum and the Pacific Commission reflect the reality of regional identity and the prevalence of cooperation in the region. The University of the South Pacific stands testament to the viability and sustainability of a regional approach to homogeneous educational needs. And the USP Law School, in particular, has already addressed many of the practical challenges of training in law across this diversity.

Detailed discussion of these and other risks arising from "smallness" and other factors of resourcing and geography, is made in Section 2.3 of this report.

Eight guiding principles

While attainment of the objectives of this project are certainly attainable, they should be recognised as being ambitious. Sustaining the development of judicial competence throughout the region will require incremental change, constant coordination of related strategies and ongoing support in the years to come.

Taking into account the assessment of needs (Section 2.1-2.2), the availability of resources (Section 2.3), the benefits of local experience (Section 2.3.c) and the prevalence of risks

existing within the operating environment of this project (Section 2.3), it is useful to distil some guiding principles with which to develop, plan and implement strategies of judicial training throughout the region.

1. *Judicial ownership* - There is a doctrinal imperative for judicial education to be judge-led and court-owned, if it is to be successful in strengthening an independent and professional judicial system.
2. *Bench-specific, national focus and decentralised delivery* - While it is educationally most effective that training should be designed and delivered to meet specific local needs wherever economically feasible, some training should be conducted on a regional basis to provide opportunities for networking and the exchange of experience.
3. *Capacity-building* - There is an overarching need to build regional commitment and capacity to deliver sustainable judicial training, rather than to create a system which is either donor driven or dependent on external expertise.
4. *Sustaining incremental medium-term change* – In view of the profound deficits in training and experience, all project strategies should be directed towards consolidating a sustainable foundation of judicial expertise. This objective can only realistically be attained through medium-term incremental development, and avoidance of dangerously seductive “quick-fixes.”
5. *Resource utilisation and coordination* - In view of the scarcity of available resources, all reasonable efforts should be made to maximise, rationalise and coordinate the use of existing resources within the region whenever they are available.
6. *Bottom-up priority* – In light of the substantial size and profound nature of the deficits of judicial competence identified in the lay judiciary, the overriding priority of all training endeavours should focus on developing basic legal knowledge, practical judicial skills and judicial outlook in courts of first instance.
7. *Consolidate judicial identity* – All training endeavour should address the specific and local needs of judges, magistrates and court administrators. Wherever appropriate, this training should be designed and delivered locally; equally, wherever possible, this training should consolidate judicial identity by training all participants together, for example in case management. On other occasions, streamed training will be more relevant and effective.
8. *Invest in future technologies* – Although access to judicial information and communication technology throughout the region is still extremely limited, this project should embrace what the future offers rather than trying to catch-up. Within the limits of viability, computer-based learning and research should be made integral elements of all judicial training activities.

e. Project outcomes

The principal outcomes of this project are threefold:

- a. Establishment of an ongoing and comprehensive process of education, training and professional development for judicial service personnel throughout the region;
- b. Enhanced competence of judicial service personnel in terms of knowledge of law, proficiency of judicial skills and development of appropriate attitudes and values; and,
- c. Improvements in the quality, efficiency and effectiveness of the rule of law.

2. Goals and objectives

In order to address the needs for judicial training in a strategic manner, a framework of development objectives, immediate objectives, outputs and activities is outlined below. This framework is outlined at Section 3.2, and discussed in detail in Sections 4 and 5 of the report.

a. Development goal

- ◆ Quality, efficiency and effectiveness of the rule of law improved.

Immediate Objectives

- ◆ Professional competence of judicial service personnel developed through *short term* training and capacity-building.
- ◆ Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

b. Project outputs

- ◆ All members of the judicial service (judicial officers, lay justices and magistrates and court officers) trained within the region
- ◆ Governance structure, policy development process and program administration mechanisms for judicial training established
- ◆ Faculty of regional and national judicial training coordinators appointed and trained
- ◆ National judicial education committees established
- ◆ National judicial training needs assessments undertaken
- ◆ Local capacity created to plan, conduct and manage an program of continuing judicial training developed throughout the region and in each country
- ◆ New bench books produced and existing services revised
- ◆ Induction course developed and conducted
- ◆ Judicial mentor scheme established
- ◆ Regular conference mechanisms established
- ◆ Regular workshop mechanisms established
- ◆ Bulletins published

- ◆ Extension learning packages developed
- ◆ Degree-level training courses for lay magistrates and justices developed
- ◆ Diploma-level training course for lay magistrates and justices developed

c. Project Activities

- ◆ Faculty development training conducted - once annually for Years 1 and 2
- ◆ Bench books and court practice manuals published - x1 new and 5 revised annually
- ◆ 5-day residential orientation course for new judicial appointees conducted - once annually
- ◆ Mentor program established - conducted continuously
- ◆ Regular annual conferences for judges, magistrates and court officers introduced and conducted - x5 annually
- ◆ Ongoing program of workshops to develop professional skills and attitudes of judges, magistrates and court officers, designed and conducted - x3 annually
- ◆ Ongoing seminar program planned and conducted - x5 annually
- ◆ Bulletin on new laws and cases for judicial officers regularly published - once quarterly
- ◆ Audio and video training recourses produced - once annually
- ◆ Foundation, diploma and degree-level training in magisterial studies and law developed and conducted - x6 new units and x10 revised units
- ◆ Lay magistrates and justices enrolled in foundation certificate of law units
- ◆ Lay magistrates and justices enrolled in magisterial diploma of law courses
- ◆ Lay magistrates and justices enrolled in law and judicial studies degree courses

d. Project inputs

i. Personnel

Personnel are a crucial ingredient for this project, discussed in detail in Section 3.3 of this report. These personnel perform a variety of honorary and professional roles.

- *South Pacific Judicial Conference (SPJC - honorary)* - participation of, and leadership from, chief judicial officers, chief lay magistrates and senior court administrators throughout the region.
- *Council of Judicial Education (CJE - honorary)* - Chaired by a chief judicial officer, with representatives of judicial officers, lay magistrates and court officers from throughout the region; together with a representative of donor(s) funding this project.
- *Executive (ECJE - honorary)* - Chaired by same chief judicial officer, supported by nucleus of four senior judicial officers, lay magistrates and court administrators from the region.
- *Pacific Judicial Training Secretariat (PJTS - professional)* - Team of five staff to produce and deliver the training activities. This team comprises a director, publisher, conference coordinator (counterpart), publications coordinator (counterpart), and clerical officer/secretary.
- *National Training Coordinators (NTC's - honorary)* - One national training coordinator appointed in each Pacific island nation.
- *Judicial Education Committees (JEC - honorary)* - A committee formed in each nation consisting of at least three persons (including the NTC), being a judicial officer, a lay magistrate and a court officer.
- *Faculty of judicial trainers (FJT - honorary and professional)* - The FJT is formed from locally experienced judges, magistrates, court officers and professional experts to present papers at conferences, facilitate practical workshops, provide computer training, and act as on-the-job mentors and coaches. This faculty is the resource-base of presenters and writers who deliver training services.
- *Consultants (professional)* - Limited provision is made to hire experts from the USP Law School and elsewhere to write and modify the certificate, diploma and degree courses. Additional consulting roles are provided where the specialist and one-off nature of tasks precludes the recruitment of staff to perform those roles more cost-effectively.

ii. *Financial - Project Budget*

Detailed budgets have been prepared for the establishment, development and activity phases of this project in Section 6.5 of this report.

Global budgets for Y1-3 and Y1-5 of this project are outlined below:

BUDGET FOR YEAR 1 (US\$)

BUDGET	TOTAL
Development	69,443
Establishment	40,026
Activities	311,424
GRAND TOTAL	420,893

Projected Budget for Year 2 (US\$)*

(Activities budget for Y1 + 5% adjustment)

BUDGET	TOTAL
Activities	326,996

Projected Budget for Year 3 (US\$)

(Activities budget for Y2 + 5% adjustment)

BUDGET	TOTAL
Activities	343,345

Projected Budget for Year 4 (US\$)

(Activities budget for Y3 + 5% adjustment)

BUDGET	TOTAL
Activities	360,512

Projected Budget for Year 5 (US\$)

(Activities budget for Y4 + 5% adjustment)

BUDGET	TOTAL
Activities	378,538

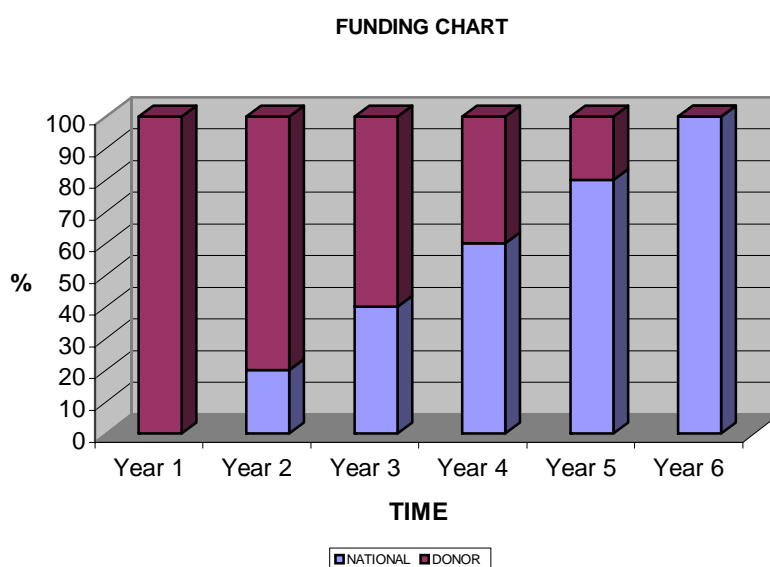
GLOBAL BUDGET for 3-year project: US\$ 1,091,234.

GLOBAL BUDGET for 5-year project: US\$ 1,830,284.

This represents an investment of US\$1,455 for each member of the judicial service over the term of a three-year project, and US\$2,400 over the term of a five-year project.

A tapering matched-funding scale is proposed to transfer financial responsibility from donors to national stakeholders at earliest feasible opportunity. This funding scale should initially provide funding by donors and methodically progress to funding by Pacific nation stakeholders in the training program.

This funding scale is represented in the chart outlined below:-



iii. Possible allocation between donors and Pacific Island nations

Applying the funding chart to the consolidated budget results in apportioning contributions between donors and national governments as follows:-

	Y1	Y2	Y3	Y4	Y5	GRAND TOTALS
Donors	420,893	261,597	206,007	144,205	75,708	1,108,410
PINs	0	65,399	137,338	216,307	302,830	721,874
Totals	420,893	326,996	343,345	360,512	378,538	1,830,284

An additional mechanism is required to negotiate and allocate respective national shares to each Pacific island nation, possibly at the time regional endorsement is secured at the South Pacific Forum.

iv. Sustainability - local capacity to sustain training

The need for local financial stake in the delivery of judicial training is an imperative.

It falls beyond the terms of reference for this project to resolve what has been described by the Pacific Community as “*the Pacific-paradox*” - balancing the conundrum of cost, affordability and the long-term sustainability of training for smaller and poorer nations, such as Kiribati.

It is however clear that to sustain training, two concurrent strategies should be implemented:

- a. *internally* - chief judicial officers should take active steps to advocate and lobby heads of government and ministries of finance for local endorsement and financial commitment to judicial training at both a national and a regional level through the South Pacific Forum; and,
- b. *externally* - civil society should be empowered to demand enhancements in judicial competence and performance.

Discussion of national and regional strategies for commitment, endorsement and sustainability are outlined at Sections 6.1, 6.2 and 6.3 of the report.

v. Project financing and packaging

Packaging the funding this project can be undertaken by donors in a variety of ways:-

- *globally* - for the full 5-year term or, alternatively, for a 3-year term
- *program-based* - for all publications or conferences for the project or specified term
- *activity-based* - on a project basis for each individual training product and/or service
- *longitudinally* - by year, packaging all activities for each period
- *infrastructurally* - by funding the secretariat directly, that is, by un-slicing "the cake."

Activity-funding can be prioritised by donors using the project work-plan, if required, noting that any unfunded activities will give rise to a need to re-slice the professional services cost cake. Project financing and packaging is discussed at Section 6.4.

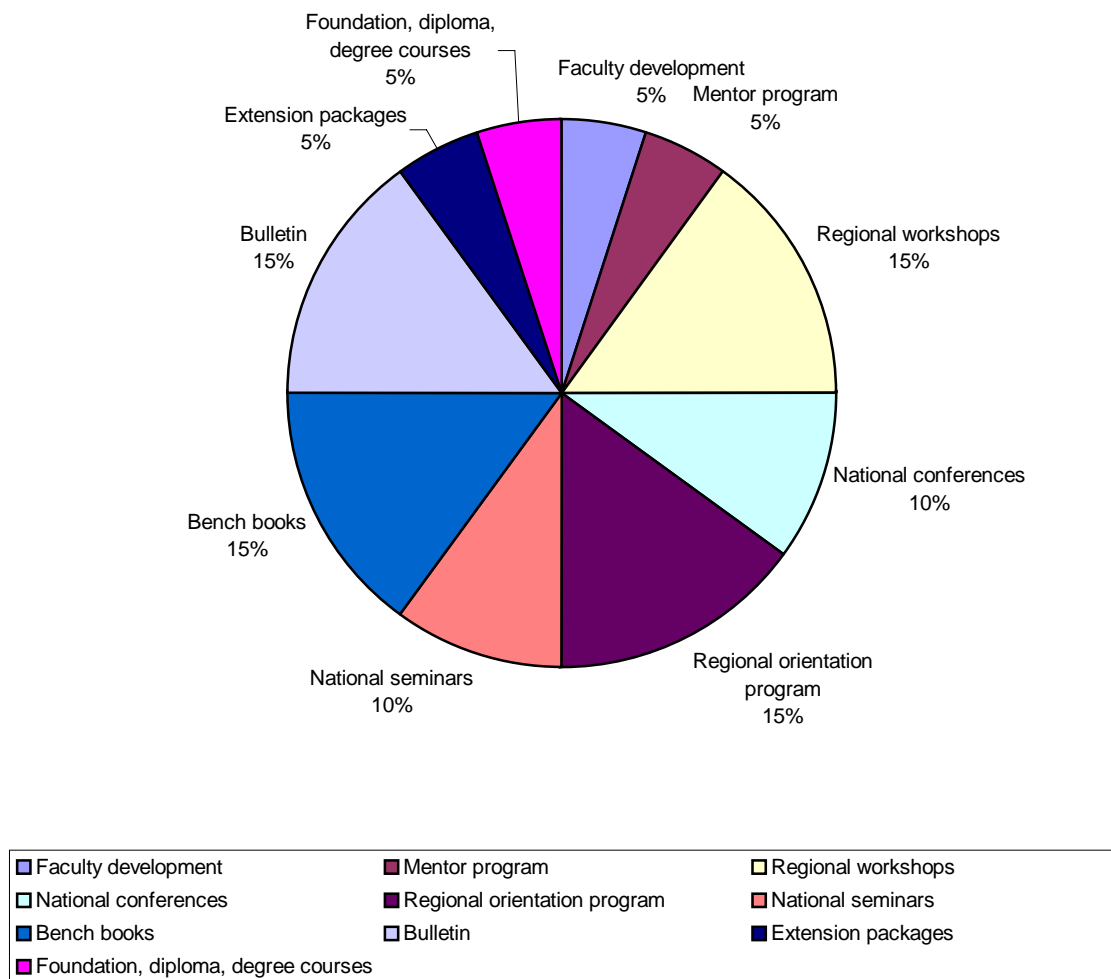
vi. Global funding and project term

The benefits of investing in training to improve judicial performance will be substantial in terms of enhancing governance and the rule of law, consolidating trade and investment security, and protecting fundamental human rights. Attainment of these objectives requires a five-year term. Meaningful improvements in judicial performance resulting from training activities will be measurable over this period, as discussed in Section 7. Donor investment strategies to improve judicial competence that rely on shorter term training interventions, such as a three-year term, are both viable and feasible but will be of more limited value. Developing judicial competence is a complex process requiring a significant investment of time, as well as expertise, as discussed in Section 3.2 of this report. This training process - and, in particular, the medium term components for retraining the lay magistracy - should indeed be ongoing and nationally sustained beyond the term of the project intervention.

vii. *Treatment of professional services*

All professional service costs incurred by the secretariat in developing and providing training products and services are fully apportioned to each activity. There are *no* residual costs requiring separate funding. Using the "slice of cake" model, these costs are totally apportioned as follows:-

"Slice of Cake" Chart - % of Professional Services (Y1)



viii. Consolidated Activity Budget (Y1 –1999)

The following table provides a summary of allocated professional services costs and direct operating costs attributed to each activity in Year One of the project.

	Activities	Allocated professional services costs	Direct operating costs	Totals
1	<i>Faculty development (x1)</i>	11,875	18,063	29,938
2	<i>Mentor program (x1)</i>	11,875	389	12,264
3	<i>Regional orientation (x1)</i>	35,625	29,973	65,598
4	<i>Annual conferences (x5)</i>	23,750	2,778	26,528
5	<i>Regional workshops (x3)</i>	35,625	8,253	43,878
6	<i>National seminars (x5)</i>	23,750	5,275	29,025
7	<i>Bench books (x1+5)</i>	35,625	3,889	39,514
8	<i>Bulletin (x1:4)</i>	35,625	3,332	38,957
9	<i>Extension packages (x1)</i>	11,875	1,972	13,847
10	<i>Foundation units (x6; +10 in Y2/3)</i>	11,875	Nil	3,959
11	<i>Diploma (see 10 above)</i>	Nil	Nil	3,958
12	<i>Degree (see 10 above)</i>	Nil	Nil	3,958
Grand Totals	x30 activity-outputs	237,500	73,924	311,424

Specific operational budgets for all thirty (30) activity-outputs to be produced in Year One (Y1) appear at Section 6.5.iv, together with detailed assumptions and notes.

It should be noted that of the thirty (30) activity-outputs planned for Year One, the role of the secretariat is to *produce* only some of these activities on a regional basis, and to *support* national training coordinators (NTC's) and Education Committees (NEC's) to produce the remainder on a local level. - In this way, sustainable outcomes are maximised and localised from the outset.

ix. Work plan of activities

Should any donors wish to prioritise the funding of these activities, reference should be made to the work-plan for this project which identifies the preconditioning and sequencing of training activities.

The following table provides a work plan, or chart of sequence, which schedules the activities of the project.

	Activities	Year 1 1999	Year 2 2000	Year 3 2001	Year 4 2002	Year 5 2003
1	<i>Faculty development</i>	Design and conduct	Review, and conduct	Review and monitor	Review and monitor	Review and monitor
2	<i>Mentor program</i>	Design and implement	Evaluate, review and monitor	Review and monitor	Review and monitor	Review and monitor
3	<i>Regional workshops</i>	Design and conduct	Design and conduct	Design and conduct	Design and conduct	Design and conduct
4	<i>National conferences</i>	Promote, support, pilot and conduct	Promote, support, pilot and conduct	Advise, assist and support	Advise, assist and support	Advise, assist and support
5	<i>Regional orientation program</i>	Develop, design, market and conduct	Evaluate, review and conduct	Review and conduct	Review and conduct	Review and conduct
6	<i>National seminars</i>	Promote, support, pilot and conduct	Promote, support, pilot and conduct	Advise, assist and support	Advise, assist and support	Advise, assist and support
7	<i>Bench books</i>	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)
8	<i>Bulletin</i>	Research, develop, launch	Publish x1 quarterly	Publish x1 Quarterly	Publish x1 quarterly	Publish x1 Quarterly
9	<i>Extension packages (x1 annually)</i>	Research, develop and accredit	Research and produce	Research and produce	Research and produce	Research and produce
10	<i>Foundation units</i>	Research, develop and accredit	Write and conduct	Conduct	Conduct	Conduct
11	<i>Diploma</i>	Research	Develop, write and accredit	Write and conduct	Conduct	Conduct
12	<i>Degree</i>	Research	Develop, write and accredit	Write and conduct	Conduct	Conduct

3. Project management

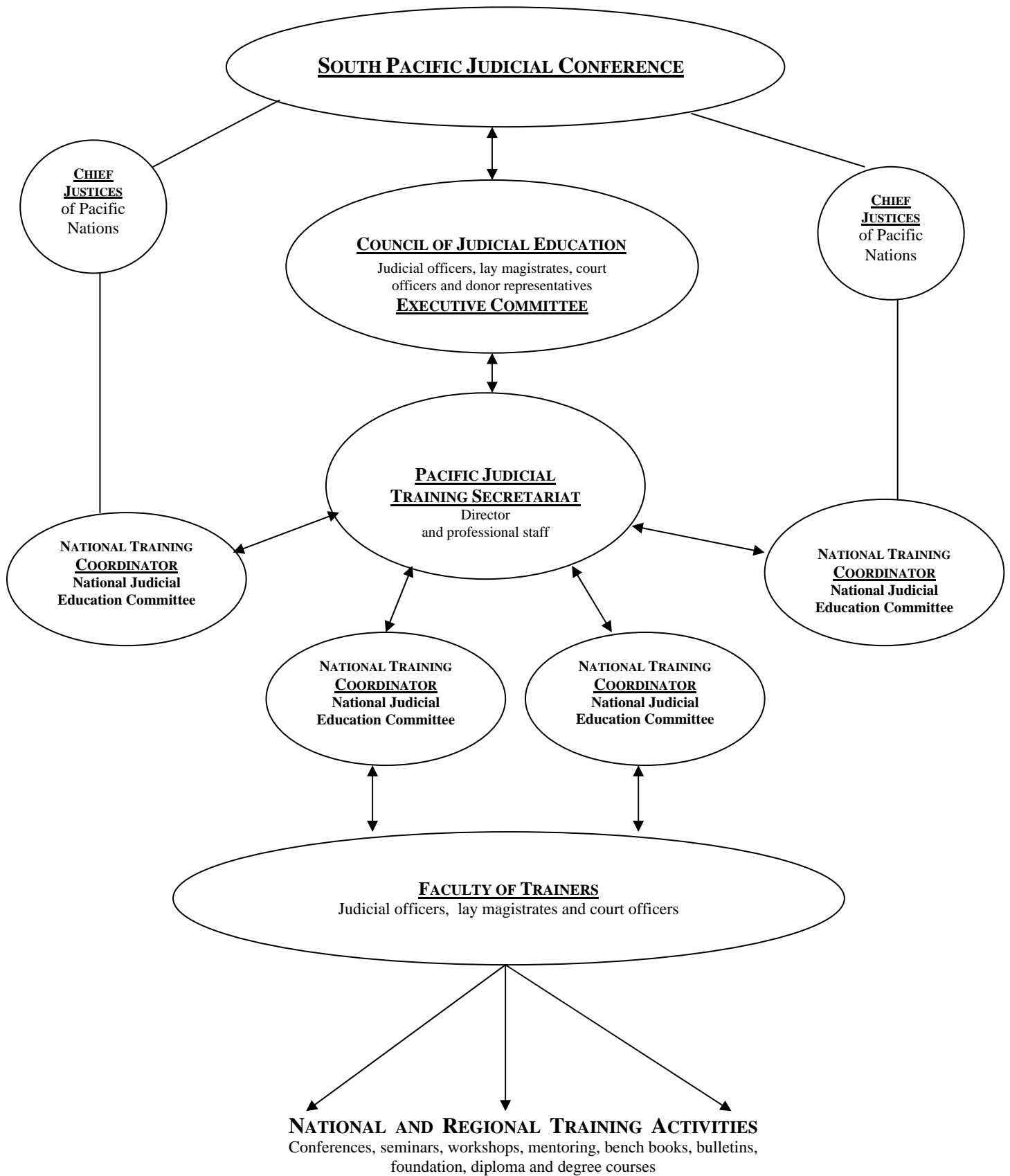
a. Governance, steering and operating structure

The judiciary must both own and direct the provision of judicial training if it is to be capable of sustaining improvements in judicial competence. The South Pacific Judicial Conference is the pinnacle judicial professional entity of the region and the best mechanism for instilling ownership and direction in training. Beneath the SPJC, five entities should be formed:

- *Council of Judicial Education*, and, *Executive* (CJE and ECJE) - the CJE reports directly to the South Pacific Judicial Conference (SPJC). This council is based on the existing Education Sub-committee of the SPJC, and should operate on a day-to-day basis through an *Executive*. The role of the Council is to develop policies for judicial training; identify needs, and set direction and priorities for training projects; and to oversee the delivery of training projects undertaken by the secretariat.
- *Pacific Judicial Training Secretariat* (PJTS) - The secretariat reports to the council. It is responsible for all operational matters, manages the program of judicial training activities on a day-to-day basis. The principal functions of the secretariat are to advise the council on judicial education, training and development; manage and implement the policies and directions of the council; develop and deliver the program of training activities and services; and support national co-ordinators, education committees and the faculty of trainers. It should comprise a small nucleus of professional and counterpart staff to manage the judicial training program on a regional level. This secretariat should be incorporated, and serve as the "executing agency" for this project. The secretariat will exist as an operationally autonomous entity working in close physical association with IJALS at USP, Suva, based on the Australian Institute of Judicial Administration model.
- *National Training Coordinators* (NTC's) - National Training Coordinators are appointed in each Pacific island nation throughout the region. They report to respective chief justices, and to the CJE through the PJTS. They are responsible to localise the delivery of training activities in each country throughout the region. They convene the local Judicial Education Committee, and coordinate the development and delivery of training activities at the national level, with the support of training professionals from the secretariat.
- *Judicial Education Committees* (JEC) - The NTC will convene, with the endorsement of the chief justice, a national Judicial Education Committee in each nation. Members of the JEC will include representatives of judges, lay magistrates and court officers. The JEC is responsible to support the NTC in developing and delivering training activities at the national level.
- *Faculty of judicial trainers* (FJT) - The FJT is formed from locally experienced judges, magistrates, court officers and other experts to present papers at conferences, facilitate practical workshops, provide computer training, and act as mentors and coaches. This faculty is the resource-base of presenters and writers who deliver training activities.

A detailed discussion of operating structures and governance is made in Section 3.3 of the report.

Organisational Chart - SPJC



b. Establishment and reporting arrangements

The secretariat should be incorporated as a non-government organisation (NGO), and serve as the "executing agency" for this project.

The secretariat is accountable to the South Pacific Judicial Conference for conducting this training program, through the Executive and the Council of Judicial Education.

The organisational chart, and the allocation of roles and responsibilities of entities within that chart, provides clear lines of reporting to the South Pacific Judicial Conference.

The Council of Judicial Education, which represents the interests of donors as well as the judiciary, will serve as the forum for "tripartite review" between representatives of the judiciary, donors and the secretariat as "executing agency."

Within the regional governance structure provided by the South Pacific Judicial Conference, the secretariat will exist as an operationally autonomous entity working in close physical association with IJALS at USP, similar to the Australian Institute of Judicial Administration (AIJA) which rents subsidised premises from the University of Melbourne.

A discussion of the terms of relationship between the secretariat and IJALS -USP, which should be defined in a memorandum of understanding or affiliation agreement, is made in Section 3.3 of this report.

c. Support arrangements

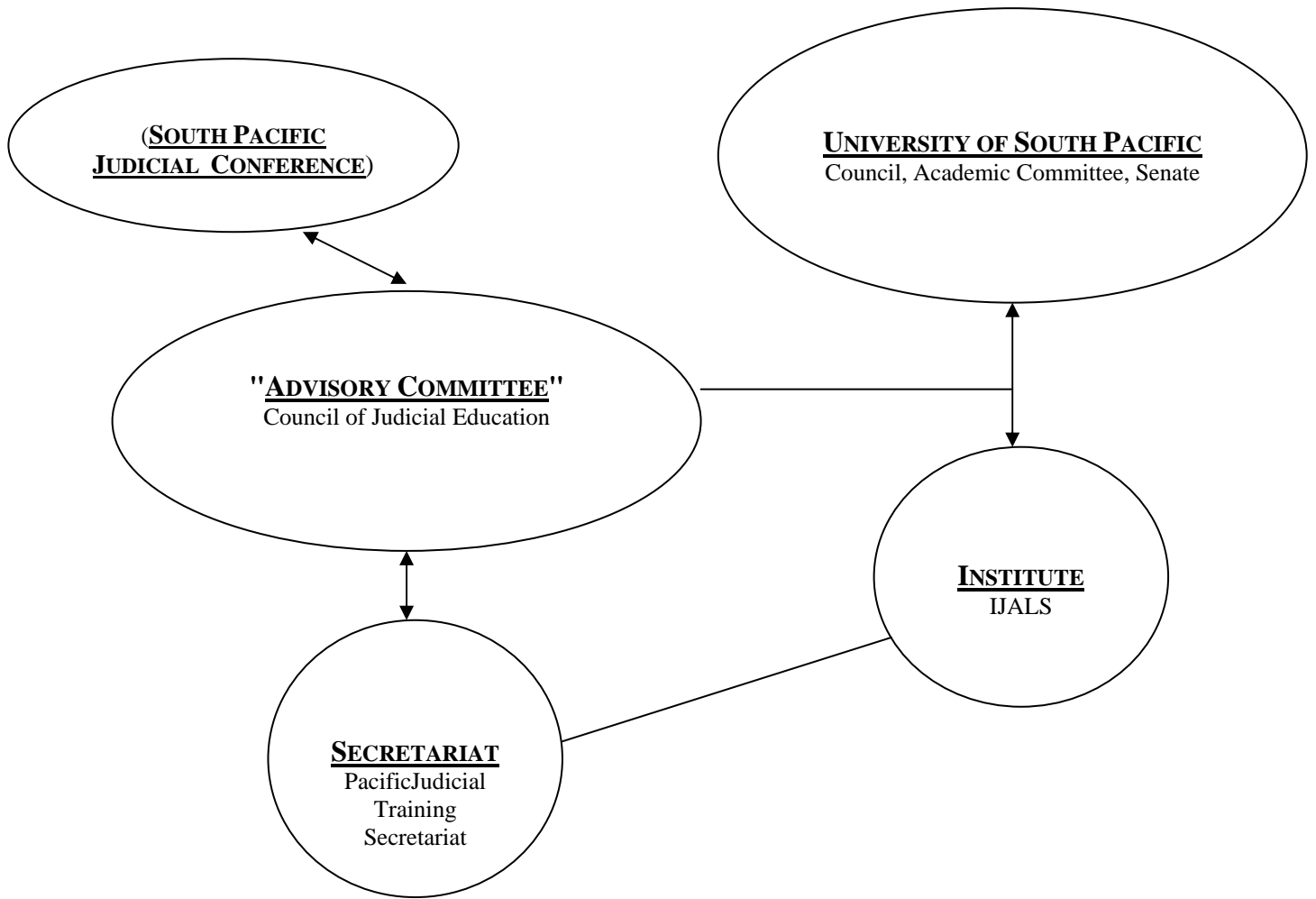
The secretariat should be based at the Institute of Justice & Applied Legal Studies (IJALS), at the University of the South Pacific (USP), Suva.

In order to focus available funding on service delivery by minimising diffusion on costs of establishment, it is necessary to accommodate this secretariat within an existing administrative structure. IJALS is well positioned and equipped to provide infra-structural and administrative support for this project. An association with IJALS is compelling in supplying pre-eminent local positioning, resources and experience of USP throughout the region, and in providing access to USPNet for the list serve which would otherwise not be available.

The university chart illustrates the operational relationships between the SPJC and the secretariat on the one hand, and USP and IJALS on the other.

A more detailed discussion of the nature and justification of this relationship is made in Section 3.3 of this report.

Organisational Chart - USP



List-Serve

A “list serve” is a communication facility to enable accessible and ready networking and communication between coordinators.

There are compelling attractions to harnessing information technology as a means of communicating cheaply and accessibly in a vastly dispersed region notorious for the substantial costs and inconvenience of travel. Electronic communication is, however, still extremely limited and often quite unreliable in many Pacific nations. Kiribati, for example, is only now acquiring email facilities; Tuvalu and Tokelau are yet to gain access. Even conventional systems of communication, involving mail fax and telephone, are often patchy in coverage, slow and far from reliable.

It is within this context that an association with IJALS, bringing with it access to USPNet, is of considerable value to this project. USPNet provides a unique and unparalleled communication network facility throughout the Pacific region. USPNet is poised to play a crucial role in both supporting coordinators, and in delivering remote training for judicial service personnel throughout the region. This capability will be substantially upgraded by 2000 (Year 2 of this project).

Detailed discussions of the list-serve are provided in Sections 2.3 and 3.3 of the report.

4. Recommendations

This report recommends that:-

South Pacific Judicial Conference -

- assume ongoing responsibility for overseeing the development of a regional judicial training program.
- constitute a Council of Judicial Education to represent the interests of judicial officers, lay magistrates and court officers throughout the region, to make policy, set priorities and oversee management of this program of judicial training.
- appoint a chief judicial officer to chair the Council of Judicial Education.
- establish an Executive Committee of the Council of Judicial Education to oversee the day-to-day operation of the secretariat.
- convene the Council of Judicial Education annually, and the Executive Committee quarterly or more frequently as required and practical (possibly by teleconference).
- establish a Pacific Judicial Training Secretariat with a staff of five personnel comprising a director, a publisher, two counterparts (conference and publications officers), and a clerical officer.
- incorporate the secretariat as a non-government organisation (NGO)
- enter into a memorandum of understanding - or affiliation agreement - with the Institute of Justice & Applied Legal Studies, University of the South Pacific.
- negotiate the terms of employment of professional staff of the secretariat, including recommending that the position of director be designated as 'Professor' of the University of the South Pacific.
- invite the University of the South Pacific to develop curricula and courseware for foundation certificate units in magisterial studies, a diploma in magisterial studies and a degree in law and judicial studies.
- adopt "eight guiding principles" of judicial training outlined in this report
- advocate to appointment authorities throughout the region the establishment of a minimum standard for eligibility to judicial office: being qualification in law at degree-level and at least five years professional experience as a legal practitioner.

Council of Judicial Education -

- develop policies for judicial training; identify needs; set direction and priorities for training projects; and oversee the delivery of activities undertaken by the secretariat

Pacific Judicial Training Secretariat -

- advise the Council of Judicial Education on training; manage and implement the policies and directions of the Council; develop and deliver the program of training activities and services; and support National Coordinators, Judicial Education Committees and the faculty of trainers.
- conduct a program of judicial training comprising conferences, workshops, seminars, bench books, bulletins, extension packages and law courses as outlined in this report on a national, sub-regional and regional basis, as appropriate.
- appoint National Training Coordinators in each Pacific island nation responsible to convene the local Judicial Education Committee, and coordinate the development and delivery of training activities at the national level.
- conduct faculty development training for all National Training Coordinators and members of national Judicial Education Committees.

National Training Coordinators -

- convene, with the endorsement of the chief justice, a national Judicial Education Committee in each nation, representing judges, lay magistrates and court officers.

Judicial Education Committees -

- support the National Training Coordinator in developing and delivering training activities at the national level.

Chief Judicial Officers of Pacific Island Nations -

- advocate and lobby Pacific island governments for endorsement of the need to allocate 1.5% of each national law and justice budget for judicial training.
- advocate and lobby the South Pacific Forum for endorsement of a voluntary standard to allocate 1.5% of the domestic law and justice budget of each member nation for judicial training, through:
 - (a) ministers of finance to secure this endorsement regionally at the Forum Economic Ministers Meeting (FEMM), and
 - (b) foreign ministers to secure this endorsement regionally for the Heads of Government meeting of the South Pacific Forum.

Regional and Bilateral Donors -

- establish a mechanism to coordinate legal sector institutional strengthening projects, and specifically judicial training activities, throughout the region.

PART 2

ANNEXES

Part 2 - Annexes

Section 1 - Background

The principal findings and recommendations of the *Report on the findings of the judicial training needs feasibility study for the Chief Justices of the South West Pacific*, (hereafter the “Grimes Report”), provide the threshold for this study. That report was undertaken for the chief justices of the Pacific in 1995/6, and subsequently endorsed by the 12th South Pacific Judicial Conference in 1997. The purpose of this current report is to build on that work and to focus on developing training projects capable of funding by donors and immediate implementation.

The *Grimes Report* is universally accepted as validly defining the broad needs for judicial training throughout the Pacific region. Having said that, there is much additional work to be undertaken in more precisely defining specific training needs, and in developing a strategic framework and approach to addressing those needs of highest priority. Most of that work is undertaken here but, of course, the major work of conducting a regional training program yet remains to be undertaken.

The principal findings of the Grimes Report can be summarised as follows:-

- a structured approach to judicial training throughout the region is required to replace the existing approach which has historically been piecemeal, and lacking planning;
- a regional focus for the development and coordination of training is required;
- training programs should be delivered within the region and, where ever possible, within the individual jurisdiction using local language;
- training should be organised and delivered by the people from within the jurisdictions;
- training is needed at a very elementary level, as well as at a more sophisticated plane;
- the magistracy and court staff need systematic training in law and procedure;
- all judicial service officers need training in computers; and,
- education of court officers and staff should be included in any training program.

The South Pacific Judicial Conference endorsed the following recommendations for training:-

- Structure creation of a judicial training centre;
- Short-term preparation of bench books for the subordinate courts;
preparation of training manuals on law and procedure for court administrators;
preparation of training manuals on computer technology;
in-country training courses to supplement the bench book/manuals;
establishment of an email training “list serve”;
development of a regional orientation programme;
organisation of skills workshops;
creation of regional faculty of training experts;
appointment of national training officers;
holding of regional conference on judicial training;
- Long-term establishment of a law reporting service;
development of a model computer system for court records;

standardisation of qualifications;
development of a structures training programme building on short term achievements; and,
establishment of a regional Council of Legal Education.

The justification for funding judicial training in the Pacific is threefold:

- d) The judiciary needs to be strengthened in exercising its role as guardian of the principles of good governance, accountability and transparency already endorsed by Heads of Government at the South Pacific Forum;
- e) Strengthening the rule of law promotes economic development by protecting financial investment and trade.
- f) The courts protect the citizen from political oppression, commercial exploitation and the abuse of fundamental human rights, such as the prevalence of violence against women.

The challenge of the current project is substantial. The needs for judicial training throughout the Pacific region are profound and widespread. It is both distressing and, on occasion, alarming to observe judicial service personnel working valiantly throughout the region to perform judicial and para-judicial roles for which they have been supported with little and often no training whatsoever. There can be no concealing the yawning gap in adequately trained and experienced judicial service personnel. This gap is at present being filled by experienced expatriate experts in senior judicial or administrative roles, and by a fragile nucleus of extremely competent and dedicated indigenous professionals.

There can be no shortcut to addressing the fundamental deficits in the professional competence of lay justices and magistrates dispensing judicial services. In essence, this requires the introduction of appropriate frameworks of legal education and professional training for the judicial service, supported by continuing judicial education and development programs.

On Saturday 10 October 1998, *The Fiji Times* published a front-page article entitled "Magistrate slated: judge says court official 'not fit for bench, 'totally incompetent'":-

"A High Court judge yesterday branded a magistrate as 'totally incompetent' and 'not fit for the bench'. Justice T blamed the (lay) magistrate for instituting 'gross miscarriage of justice' in one case too many. He said he had 'repeatedly warned' the magistrate in several judgments but these 'failed to deter him.' In his ruling, Justice T said it was unbelievable that the magistrate concluded (A) was guilty, based on (A)'s interview statement. In his statement (A) had maintained throughout that he would only tell his side of the story in court. Justice T said the magistrate was wrong in finding (A) guilty simply because he had chosen to remain silent. 'I have to tell this magistrate yet again that no inference of guilt can be drawn from an accused remaining silent,' he said. ... He noted that the magistrate had quoted authorities 'which he clearly did not understand ... I just ask how long this can be allowed to go on? He said.'" Justice T described 'the magistrate's performance was of 'grave concern.'"

Whatever the demerits of this particular story, it is unfortunately far from apocryphal. To the contrary, it is useful to illustrate the fundamental nature of the needs for judicial training of lay appointees.

But, this sobering assessment is far from bleak. The graduation of the pioneering cohort of some 50 lawyers from the University of the South Pacific's law degree and professional admission programs in mid-1998 is a most significant milestone which will transform the legal profession in its size, nature and expertise throughout the region. It may be realistically hoped that in a decade – at most, two - there will be an emerging cadre of highly experienced professional lawyers to supply the reservoir from which competent judicial appointments can be drawn. The central challenge of this project is, therefore, to professionalise the judicial service during the intervening period.

Terms of Reference

The terms of reference for this project, outlined below, were defined jointly by members of the education sub-committee of the South Pacific Judicial Conference (SPJC) and donors, specifically the United Nations Development Program (UNDP), the Australian Agency for International Development (AusAID), the Department of Foreign & International Development (DFID, formerly British ODA), the New Zealand Office of Development Assistance (NZODA) and the Asian Development Bank (ADB).

The position of Regional Judicial Training Coordinator was advertised, as agreed, by UNDP in the following terms:-

UNDP's Governance for Sustainable Human Development Programme is seeking a Regional Judicial Training Coordinator (RJTC), in cooperation with the South Pacific Judicial Conference, and the Institute of Judicial and Applied Legal Studies, University of the South Pacific.

The RJTC will finalise a prioritised business plan for the next three years with indicative costings and coordinated regional judicial training activities to be carried out through a regional judicial education centre, in a form acceptable to donors to consider for funding.

He/she will consult, liaise and negotiate with members of the judiciary in each country on the appointment of a national judicial training coordinator. He/she will implement an electronic mailing list facilitating communication between these judicial training coordinators, and other short-term judicial training projects subject to available funding.

On appointment as Regional Judicial Training Coordinator, this writer was supplied with a copy of the following terms of reference:-

1. That the UNDP finance the appointment of a Coordinator for a period of six months, and prior to the next meeting of the SPJC meeting
2. That the statement of duties for the Coordinator will be settled by the Subcommittee and the UNDP
3. That the SPJC Subcommittee will approve the appointment of a Coordinator. The UNDP will advertise the position, receive applications and rank candidates. The Subcommittee will consult with the donor on the final appointment
4. That the salary/in kind support for a Secretary/PA be provided to the Coordinator for the initial period of their engagement
5. That the Coordinator, PA be based at IJALS
6. That a responsibility for the Coordinator will be to refine project proposals as prioritised by the Subcommittee, in suitable form to seek specific project funding
7. That a prime responsibility for the Coordinator will be to develop the project proposal for the establishment of a Centre for Judicial Education
8. That the Coordinator will prepare a work plan with associated budgetary estimates
9. That an ancillary responsibility of the Coordinator will be to assess the viability and appropriate delivery of projects nominated in consultation with the Subcommittee. Such projects will accord with any appropriate short term projects in line with the short term recommendations of the Feasibility Study

10. That the Coordinator shall report to the Subcommittee as interim committee of management, for the relevant resolutions of the SPJC. The interim committee will inform the donor on a regular basis as to the progress of the coordination. That the reports of the Coordinator shall be approved by the Subcommittee.
11. The Coordinator will report to the UNDP on the discharge of his/her contractual obligations.
12. That the interim committee of management to report the next SPJC on the achievements of the Coordinator and the discharge of his/her (*sic*)
13. That the Subcommittee accepts the appointment of the Coordinator as the first stage towards the achievement of the SPJC's relevant resolution.

Before and after appointment, consultations were conducted on these terms of reference between the UNDP, other donors in Suva, the chairman and members of the SPJC's education committee, and this writer. As a consequence, a number of refinements and clarifications were forthcoming, which include the following:

- a) Appointment of this writer would be by way of a 3-month consultancy contract, rather than as a 6-month employed position. Any need to extend this contract would be assessed and agreed between UNDP, UNOPS and the writer as the need arose.
- b) That in discharging the substantive responsibilities as outlined in paragraphs 6-9 of the above Terms of Reference, it has been understood by this writer that he should undertake the following:-
 - i prepare a 3-year "business plan"
 - ii identify and develop detailed funding proposals for priority training projects capable of immediate implementation ("the project documents")
 - iii consult on the appointment of a regional coordinator and national coordinators
 - iv introduce a "list serve" or electronic mailing list between the coordinators.

While this "business plan" has been variously described as a strategic plan, a management plan and/or an action plan, a consensus does exist that this document should provide a detailed and comprehensive approach to organising and implementing a program of judicial training to meet the needs in the region.

The "project documents" define specific training projects and budgets in a form amenable to funding by UNDP and other donors.

The "list serve" is a communication facility to enable accessible and ready networking and communication between coordinators. It is intended that this facility should be "electronic" in the sense of utilising the internet: email, discussion groups, noticeboards, and mail-lists. This could extend to "virtual" conferencing, as means of overcoming the substantial logistical difficulties and geographic distances of the region. More conventional systems of communication will however also be used, noting that some Pacific island nations do not yet have ready access to computers or to the World Wide Web and, in some cases, nor indeed do they have reliable telephone and fax facilities.

- c) Finally, it is observed that some uncertainty surrounds the geographic scope of this project. This arises from different definitions of "*the Pacific region*," which is most graphically illustrated by differences in the respective memberships of the South

Pacific Forum (16 nations), the South Pacific Conference (27 nations), and the University of the South Pacific (12 nations). After detailed discussion, it is proposed that for the purposes of this project the term “the Pacific region” is an inclusive and flexible description of those island nations of Melanesia, Polynesia and Micronesia which claim this identity and are, for the most part, located in the Pacific Ocean.

Comment on the terms of reference

In broad terms, this report seeks to put into practical effect the recommendations for judicial training made by the *Grimes Report*.

This is however qualified in two respects. First, it should be noted that some of these recommendations fall beyond the terms of reference of this project. These relate, in particular, to the establishment of a law reporting system (6.3.1) and the development of a model court (6.3.2). Equally, the uniformisation of qualifications and standards in court administration (6.3.3), while promoted by regionally-based training, similarly fall beyond the parameters of this project to implement in full.

Second, it is natural consequence of the further consultations undertaken in this project that this report recommends the development of specific training projects which may refine or go beyond those proposed in the *Grimes Report*. The most prominent example of this is illustrated in my recommendations to introduce a medium term strategy to educate the lay judiciary.

Section 2 - Operating Environment

1. Needs assessment

The South Pacific region is characterised by strong customary traditions and kinship, acute geographic dispersion, significant cultural diversity, smallness and resource shortages, an imperative to develop economic and trading capacity, very recent nationhood bringing with it varying expectations of national government, and divergent expectations of regional identity. All of these factors impose unique pressures on the judiciary of the region to sustain the rule of law. In this environment, the link between good governance, rule of law and the capacity to deliver transparent judicial services is critical.

The needs for training of the judicial service of the region (that is, of judges, magistrates and court administrators and support staff) are profound, widespread and diverse; ranging from the most elementary cornerstones of law and procedure to the more sophisticated aspects of managing complex commercial litigation.

In the course of consultations, the assessment of these needs which was conducted by Professor Richard Grimes was generally endorsed as being valid and appropriate. This assessment presents an overview of the needs for education, training and development, and provides a reliable statement of the needs of the region.

Indeed, in some sense, the findings of the Grimes Report are hardly novel. Recognition of the existence of the needs for judicial training throughout the region is longstanding. Prior to the Grimes Report, for example, the Commission of Inquiry on the Courts of Fiji conducted in 1994 by the Hon Sir David Beattie (*Beattie Report*), recommended orientation training for judicial appointees, annual national conferences, the publication of bench books to judicial officers, and training for registrars in judicial administration. Implementation of many of these recommendations remain outstanding. More recently, Hicking and Bayliss have urged the need for training of magistrates relating to “attitudes,” specifically to address criticisms that they did not keep to the rules of court, granted adjournments too readily and exercised discretion unpredictably. These commentators endorsed the utility of bench books and advocated regular workshops and digests of recent cases and developments.

One important observation should however be made: these needs can - and should - be defined with greater local precision from country to court, and from court to court, prior to any specific training program being introduced. A detailed and localised assessment of needs should be undertaken prior to the introduction and implementation of any specific training project.

Consequently, this report focuses on refining our understanding of those needs which have been identified in the preliminary assessment, and on developing appropriate responses to meet those needs.

Who needs judicial education?

This question may seem self-serving, but it is in fact critical to the study. Obviously, it might be thought that judicial officers, being qualified judges and magistrates, have a direct interest

in judicial education and should be the primary beneficiaries. Yet, this need not necessarily be so: in some countries, such as England for example, lay magistrates are the primary focus of the training provided by the Judicial Studies Board. In others, such as the United States, courts administrators and clerks in vast numbers make up some ninety per cent of all participants.

Any assessment of the needs for judicial education in the Pacific reveals a complex and interrelated mosaic of needs for education, training and ongoing professional development. And, indeed, many of these needs are common to the broader legal profession.

Within the time available for this project, it has not been possible or appropriate to undertake comprehensive and exhaustive assessments of all these training needs. Consequently, I have undertaken extensive briefings with judicial members of the education committee of the South Pacific Judicial Conference and, in addition, I have interviewed numerous other stakeholders in the justice system in Papua New Guinea, Fiji, Samoa, New Caledonia, Kiribati and Vanuatu. These consultations included the following office-holders in each country: the chief justice, chief magistrate, numerous judicial officers, attorney-general, secretary for justice, DPP, public solicitor/defender, chief registrar, ombudsman and law reform commissioner (where appointed). I have also consulted with representatives of the legal profession and civil society wherever available.

These consultations have been extremely useful and informative in defining the needs for judicial training. While unavoidably selective, these consultations have provided valuable insights on the priorities for judicial training throughout the region, which have built on those described in the *Grimes Report*. For this reason, the detailed inventory of individual national needs will not be replicated again in full here.

Instead, a detailed analysis of these needs reveals that it is useful to redefine these needs within a framework of four professional categories determined by the nature of the roles performed, and the level of pre-existing education and training. These categories are *court officers* (administrators, clerks and other support staff), *lay magistrates* (including lay justices and commissioners), *judicial officers* (including law-trained magistrates and judges), and *chief judicial officers*. In addition, there is a category of training needs generic to *all judicial service personnel*.

a. Lay magistrates and justices

Prior education and training – while prior education and role varies from country to country, in general, it is appropriate to describe lay magistrates as being appointed on the basis of their standing and esteem within their community and their knowledge of local culture and customary law. In many if not most cases, lay magistrates are highly respected “traditional” people who may be more familiar and comfortable with the oral tradition who may possess a limited formalised education and *no* legal training.

Professional role – Lay magistrates and justices are generally responsible to hear and resolve all disputes which are subject to customary law, commonly including land and family matters. In addition, but depending on specific jurisdiction, they may exercise a limited but often significant European-based jurisdiction as judges at first instance of criminal offences and civil disputes. Moreover, magistrates are routinely called upon to assess the impact of customary conduct and defences within the context of European-

based jurisdiction – a vexing role even for the most able. In Kiribati, lay magistrates have the power to sentence criminal offenders up to five years of imprisonment; more remarkably, in Fiji lay magistrates can hear and dispose of rape trials - an alarming incongruity begging for law reform!

Synopsis of needs – Overall, there is a fundamental lack of legal and judicial outlook, culture, knowledge and skills. For the most part, lay magistrates lack the foundations of any legal training. Often compounded to this is a sense of demoralisation caused by chronic lack of support and under-resourcing. These profound deficits impose an imperative to focus on the absolute basics, *in particular*: on criminal law/procedure and case management.

The following inventory of these “absolute basics” is illustrative rather than exhaustive:-

- ***Legal knowledge and concepts***
 - sources of law – constitution, statute, common law and custom
 - criminal and civil jurisdictions
 - natural justice, due process and fair trial
 - admissibility of evidence
 - court procedures – criminal and civil
 - fundamental human rights and civil liberties
 - ex parte procedures
 - legal literacy
 - role and impact of customary law
 - ADR

- ***Judicial outlook, attitude and values***
 - judicial role, powers and responsibilities
 - judicial independence, impartiality, integrity and outlook
 - judicial review
 - judicial conduct and ethics
 - gender/race equality

- ***Judicial skills***
 - how to conduct a hearing trial
 - control of courtroom
 - note-taking
 - legal research
 - statutory interpretation
 - judgment writing and giving reasons
 - principled and uniform sentencing
 - communication skills
 - time management
 - case management

b. Court officers and para-legals

Prior education and training – The prior education of court officers and other para-legals (including administrators, registrars, clerks, secretarial and support staff) is highly variable. In many countries, this may involve completion of schooling, and occupational

training is either modest or non-existent. A number of judges have observed that their court officers and clerks are secretaries who have been required to undertake these duties. In other counties, these positions may be filled with graduates, some of whom have undertaken postgraduate and advanced-level training overseas. For the most part, however, there is typically a total lack of sector-specific training. Public Service Commissions provide generalised courses in counselling, managing change, gender in the workplace, customer service, writing skills and time management from time to time.

Professional role - Court officers perform a broad variety of judicial support and para-judicial responsibilities. These roles frequently involve assisting ordinary people gain access to the courts and legal remedies, and often involve translation of proceeding to/from English to the local language or dialect. A considerable amount of job-sharing is often also required.

Synopsis of needs –

- ***Legal knowledge and concepts***
court system and method
court procedures – criminal and civil
legal literacy – legal terminology and technicalities
- ***Legal interpretation***
role of the legal interpreter
plain legal language
- ***Judicial administration skills***
Case management
administering courts: filings, fixtures, hearing lists and queuing
record management
registry management and practice
teamwork between judicial and court officers
- ***Generic management and administrative skills***
communication skills – written and oral
client service
office management

c. Judicial officers

Prior education and training – Most law-trained judicial officers sitting in the region have completed a degree in law either at UPNG (the only law school in the region until graduation of USP's first cohort of lawyers earlier this year), or at an Australian or New Zealand law school. The extent of professional training and experience similarly varies throughout the region. In some cases, indigenous law graduates have been appointed almost directly to the magistracy. Most, but not all judicial officers, do however have extensive prior experience as practising lawyers prior to appointment to the bench. Often judicial officers have many years experience as judicial officers in the region. Expatriate judicial officers and lawyers are still quite frequently appointed to many benches, both with and without prior judicial experience. In addition, extremely eminent and highly experienced expatriate judicial officers sit as

appellate judges in many jurisdictions. Broadly speaking, there are usually domestic budgets available to assist judges attend overseas conferences from time to time.

- *Professional role* – The role of judicial officers is determined by their jurisdictions. Most law-trained judicial officers sit as judges of first instance in either the magistrates court or the superior court (however named). Eminent superior court judges also exercise an appellate jurisdiction.
- *Synopsis of needs* –
 - case management
 - team leadership
 - judicial information technology and computer skills
 - human rights and gender equality (ongoing)
 - managing complex litigation and commercial disputes
 - advanced evidence; documentary evidence; expert evidence
 - major fraud
 - customary law – importance, role and impact on judicial sentencing
 - judicial information systems, and computer skills
 - coaching and mentoring

d. Expatriate judicial officers

From the perspective of training, expatriate judges are an essential resource providing invaluable expertise for developing judiciaries in the form of readily accessible experience and role-modelling. To maximise the performance of expatriate appointees, particularly short-term appointees, there is a need to provide short intensive local induction training in cultural appreciation and the nature and impact of custom on local law. Consultations have revealed that unfamiliarity or insensitivity have, on occasion, lead to marked incongruities or inconsistencies in the application of law, particularly in sentencing, giving rise to uneven treatment and practices such as forum-shopping.

- *Synopsis of needs*
 - local induction training on law, custom and culture
 - coaching and mentoring

e. Chief judicial officers

The Pacific region is well served by a cadre of eminent and highly experienced chief judicial officers. As the region engages the dynamic challenges of institutional development, there is a need for a new styles of judicial leadership. As is evidenced throughout the common law world, the imperatives for increased efficiency and effectiveness in judicial administration give rise to quite distinctive training needs in judicial management, managing change and team-leadership. The role of chief judicial officer is pivotal in this process.

- *Synopsis of needs*
 - leadership and team-building
 - caseload management
 - organisational administration

managing organisational change
coaching and mentoring

f. **Generic needs of the judicial service**

Throughout the judicial service, there is substantial establishment needs for the introduction of modern judicial information systems, court recording and law reporting facilities. All of these have significant education, training and ongoing support requirements which are contingent on the implementation and integration of related strategies discussed elsewhere in this report.

- *Synopsis of most immediate needs*
 - education in the operation and use of judicial information systems
 - computer training in word processing, and electronic legal research methods
 - training in court recording.

2. Quantification of need

It is useful in any assessment of the needs for judicial training to provide some quantification the size of those needs in addition to a description of their nature. This quantification determines not just the size of the need but also the logistical requirements necessary to effectively address those needs.

The population of the south Pacific region is approximately five million people, most of whom live in Papua New Guinea and Fiji, respectively. Within this population, the clientele for a program of judicial training throughout the Pacific region is, in essence, small, fragmentary and diverse.

The geography and demography of the Pacific region impose characteristics on the needs for judicial training which are quite unique. These characteristics are hallmarked by the extraordinary size of the region, minuscule national populations and acute dispersion, a plethora of customary jurisdictions, and quite marked diversity in the development and application of European-based law.

The following table provides some indication of the size and dispersion of the judicial service population throughout the region. In some instances, information that has not been available is marked “N/A”.

COUNTRY	Independence	Population	Islands	Land area (sq km)	Levels of Courts (inc customary courts; exc Privy Council)	Law-trained Judicial officers	Lay Magistrates	Court Officers
Fiji	1970	773,000	332	18,272	x5 - Appeal, Supreme, National, Magistrates, Native Lands	27	3	98
Vanuatu	1980	177,000	80	12,190	x4 - Appeal, Supreme, Magistrates, Island	4	6	34
Papua New Guinea	1974	4,200,000		462,000	x4 - Supreme, National, Local & District, Village & Land	16 judges, 135 law-trained magistrates	N/A	N/A
New Caledonia	French	N/A			x3 – Court de Cessation; Tribunal de Premier Instance; Court D’Appel;	23	N/A	N/A
Samoa	1962	170,000	5	2,934	x4 – Appeal, Supreme, Magistrates, Land & Titles	3	13	N/A
Kiribati	1979	78,000	33	726	x3- Appeal, High, Lands	1	138	48
Tonga	1970	98,000	170	688	x3 - Supreme, Magistrates, Land	5	6	30
Marshall Islands	1979	56,000	34	181	x4 - Supreme, High, District, and Community	3	30	7
Solomon Islands	1978	380,000	6	28,000	x4 - Appeal, High, Magistrates, Local	4	12	19
Niue	1974	2,100	1	259	x2 - High, Land	2	8	4
Tokelau	New Zealand	1,500	3		x2 - (NZ) High, Commissioners	Nil	3	NA
Tuvalu	1978	9,600	9	26	x5 – Appeal, High, Senior Magistrate, Magistrates (lay), Island	- Nil (2 visiting: from NZ); - I Peoples’ lawyer; no Bar	1 resident magistrate + 41 Island magistrate	9
Cook Islands	1965	19,020	15	240	x2 - (NZ) Appeal, High	1	N/A	N/A
Nauru	1968	10,700	1	21	x4 - (Aust) High, Supreme, District, Lands	- Nil (Visiting) Pleaders + I lawyer	1 expat resident magistrate	N/A

As best can be calculated, the total population stands between 750-1000 judicial personnel throughout the region, comprising some 250 law-trained judicial officers, with approximately similar numbers of lay justices and magistrates, and court officers.

Conclusion

In essence, there are three overarching needs for judicial training which exist throughout the region:-

- d. Train lay justices and magistrates
- e. Induct new judicial appointees with formalised training and on/off-the-bench support
- f. Support and develop all judicial service personnel with continuing on-the-job professional education, training and development.

While recognition of the existence of the needs for judicial training is longstanding, the reality remains that co-ordinated action to address these needs remains long outstanding.

3. Resource assessment

The Pacific region is already potentially well resourced to address its needs for judicial training, in terms of existing institutional capability and available expertise. There are numerous expert resources in and around the region which are available and should be harnessed to this project. Establishing a viable training program will however require considerable special assistance, and many ongoing challenges surround the issue of sustainability.

a. Institutional capability and available expertise

Any inventory of institutions and experts available to resource this project should include:

◆ *Local*

- Experienced local judges, magistrates and court officers
- Experienced local judicial trainers
- Public Service Commissions in each country
- National universities and other occupational training institutions

◆ *Regional*

- Institute of Justice & Applied Legal Research, USP, Suva (IJALS)
- Legal Training Institute of Papua & New Guinea (LTI)
- Pacific Law Officers Meeting (PILOM)
- School of Law, University of Papua & New Guinea (UPNG)
- School of Law, University of the South Pacific (USP)
- Secretariat of the Pacific Community, Noumea, (SPC)
- South Pacific Forum (SPF)
- Universite Francais de la Pacifique, Noumea, (UFP)

◆ *International*

- Australasian Judicial Orientation Program of the Australian Institute of Judicial Administration (AIJA)
- Commonwealth Judges & Magistrates Association (CMJA)
- Judicial Commission of New South Wales (JCNSW)
- Orientation program of the District Court of New Zealand (DCNZ)
- University of Wollongong postgraduate program in judicial administration (UW)

Farther a field, much valuable assistance and resources in judicial training may be acquired from various leading institutions around the judicial world, including:

- Commonwealth Judicial Education Institute, Canada (CJEI)
- Ecole de Magistrature, France (EDM).
- Judicial Education Research & Information Technology Project, USA (JERITT)
- Judicial Studies Board, Britain (JSB)
- National Association of States Judicial Educators, USA (NASJE)
- National Judicial College, USA (NJC)

In light of the imperative to build regional capacity, it is useful to survey some of the principal institutions within the region which contribute to defining the operating environment.

i. South Pacific Forum

The South Pacific Forum (SPF), which is based in Suva, was established in 1971 and represents the Heads of Government of 16 independent and self-governing countries within the region. The SPF is dedicated to improving the capacity of the member countries and to coordinating action on matters of common interest. It aims to foster and promote regional cooperation in trade and investment, economic development, and political and international affairs.

Membership of the Forum comprises: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palua, Papua New Guinea, Republic of the Marshall Islands, Samoa, Tonga, Tuvalu and Vanuatu.

The administrative arm of the SPF, known as the Forum Secretariat, conducts numerous programs to promote regional cooperation. It operates a Legal and Political Division within its political and international affairs program, which provides limited legal and legislative drafting assistance to implement commitments made under the 1992 Honiara Declaration on Law Enforcement Cooperation.

In fulfilling its mandate in the legal area, the Forum works closely with key regional and international organisations such as the Pacific Law Officers Meeting (PILOM), the Commonwealth Secretariat and the United Nations. The adoption of the Aitutaki Declaration by leaders in 1997 broadened the framework of the security environment, leading to greater activity of the Forum's Regional Security Committee.

Informal preliminary consultations with senior policy-makers at the Forum indicate in-principle interest in exploring means to collaborate in promoting the endorsement and development of a judicial training project, as a means of strengthening investment and trade security and thereby economic capacity throughout the region.

ii. Pacific Community

The Secretariat of the Pacific Community (SPC), formerly the South Pacific Commission, is based in Noumea. The SPC was established in 1947 and represents 27 member countries. It is a non-political organisation which confines itself to advisory and consultative activities aimed at encouraging and promoting the economic and social development of the region.

Members of the SPC comprise American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji, France, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Marianas Islands, Palua, Papua New Guinea, Pitcairn Island, Solomon Islands, Tokelau, Tonga, Tuvalu, United Kingdom, United States, Vanuatu, Wallis and Futuna, and Samoa.

The objectives of the SPC are to provide a common forum within which island peoples can discuss and make known their ideas and seek regional solutions to shared problems, to develop the concept of regionalism, to help meet the basic needs of island peoples, to develop

ways to improve the flow of trade, ideas and people among the islands, and to attract and coordinate aid resources. The SPC focuses on five priorities which are directed towards developing social resources, land resources, marine resources, information and communication, and what it describes as pragmatic executive management. Its works consists of technical assistance, and an education and training program delivered through courses at in-country, sub-regional and regional levels.

Informal preliminary consultations with senior policy-makers at the Commission indicate that it is unlikely to be positioned to collaborate in a regional judicial training project.

iii. South Pacific Judicial Conference

The South Pacific Judicial Conference is the pinnacle judicial professional entity of the region. The SPJC conducts biennial regional conferences and has convened a Sub-committee on Judicial Education of senior jurists from the region. This Sub-committee is presently serving as the steering committee for this project.

iv. University of the South Pacific

The University of the South Pacific (USP) was established in 1967, and provides higher education and training for 13 nations in the region. The university is centred at the Laucala campus in Suva, with two other campuses in Port Vila Vanuatu, and Apia, Samoa. In addition, the university operates 8 other centres in member country, principally to support local “extension” students studying by distance learning. In 1997, there were 9,208 (5278 equivalent full-time) students enrolled at USP, approximately two-thirds of whom were engaged in full-time studies on the various campuses and half in part-time and extension studies programs throughout the region. Of these, 167 students were enrolled in the law certificate course, 11 in the law diploma, and 280 in the law degree program. Approximately half of these students come from Fiji, and almost forty percent are female. In 1997, 51 students graduated in the first class to complete their law degree studies.

Members of the USP are Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu and Samoa.

Legal studies

The School of Law, which is based on the Port Vila campus, introduced a law certificate (Dip Law) course in 1985 and a Bachelor of Law (LLB) program in 1994. Of ground-breaking significance, the first cohort of some fifty graduates completed the law degree course in 1997 and, most recently, completed the Professional Diploma in Legal Practice (PDLP) in mid-1998 at IJALS in Suva. They have now been admitted to practice. These graduates, who come mainly from Fiji but also other South Pacific nations, are the first lawyers to be trained within the region. The focus of the USP law program is on the laws of the countries in the USP region.

USP offers two legal studies programs: a para-legal certificate, and a degree in law:

- a) *Certificate in law* - This program has recently been restructured, and now consists of two sub-degree certificate courses (*criminal* and *civil*). These provide para-legal training for non-lawyers in ten units: introduction to law, types of law, legal interpretation, law for

administrators, business law, criminal liability, policing, civil courts, criminal courts and private law. The units are taught by extension studies using extensive stand-alone materials, and replace an earlier certificate which included a unit on magisterial studies for lay magistrates and lay justices.

- b) *Law degree program* – While it is premature to assess the effectiveness of USP approach to law training in the region, it is significant that this approach focuses on local law and traverses the diversity of law and practice throughout the region. It can be observed that many of the challenges confronting the regional delivery of any judicial training have already been engaged in the USP approach, and may usefully serve as a template for this project.

USPNet

A significant feature of USP is its extension program, *USPNet*, which provides a distance learning courses for students throughout the region who are unable to attend campus. The principal elements of this program are selected courses which have been redesigned for remote learning and are supported by stand-alone written materials.

The extension program spans all levels of education offered by USP, and includes preliminary and foundation level courses, vocational training, degree-level and continuing education. Completion of extension studies qualifies students variously for certificates, diplomas, and (as yet in one discipline – education - only) undergraduate degrees.

Development of the extension program is ongoing: in 1999, all first year law subjects will be available by extension study. These subjects include: Legal System 1 & 2, Legal Methods and Research, Torts 1& 2, and Public Law 2. Perhaps more significantly, in 1999, instruction for all year two law subjects will undergo pilot delivery using the internet supported by a weekly face-to-face workshops, but without either lectures or hard-copy materials.

The extension program also includes satellite audio-broadcast tutorials in a number of subjects throughout the region. At the present time, regular satellite audio-links operate to five member countries between Fiji, Tonga, Cook, the Solomon Islands, and Vanuatu. In addition, radio links are operative with Samoa and Tuvalu. It should be noted that no regular communication links as yet operate with Kiribati, Niue, Nuaru or the Marshall Islands.

It is planned, possibly somewhat optimistically, that this satellite capability will be substantially upgraded in 2000 with the launch of a satellite owned by USP and the establishment of “earth-stations” at all 11 centres. Certainly, in-principle donor funding has already been committed. Once operational, this capability will significantly enhance the university’s remote teaching capability, providing video broadcasting and teleconferencing in audio, video and 4-channel broadcast, in addition to existing data and email capacities. Ultimately, it is envisaged that the extension facility will also provide electronic access to libraries around the world.

Extension materials

Limited inspection of a sample of extension materials was undertaken using a first year law degree subject: Legal Systems 2 (LA101). These materials consisted of three components: (a) introduction and assignments, (b) two course books, and (c) three readers. These materials

were designed to enable students to undertake the course without any supplemental instruction, where geographically unavoidable. The program does however aim to provide tutorials where locally feasible.

Overall, these materials are incisive, straight forward, accessible, clear and detailed. The course books provide the framework of instruction, and contain many questions and exercises for participants to regularly apply and test their knowledge and understanding. The readers extract essential statutes, cases and articles and are substantial, in this instance totalling 1067 pages. Integration of course book with the readers appears to be relatively seamless.

The major criticisms which have been encountered in consultations are that they are primarily discursive – involving very substantial amounts of essentially passive reading – and that they require improved use of plain language. While these criticisms are doubtless endemic to many courses in law around the world, they raise particularly legitimate concerns, having regard to the ambitious – indeed daunting – challenges of learning the law in acute isolation.

Overall, this limited inspection revealed an impressive body of materials which, subject to ongoing refinement, demonstrate that USP does have a capacity to develop and deliver legal education remotely.

One critical qualification should be noted: the training needs of the judicial service go far beyond instruction on the substantive law. These needs significantly include the development of practical judicial skills and professional attitudes. The transmission of volumes of stand-alone information, however clearly, is completely inadequate to develop these fundamental judicial competencies. Additional educational strategies, beyond existing extension packages, must be developed in any program of judicial training.

It is recommended that USP be invited to develop a curriculum of magisterial studies materials which address key information, skills and attitudes needs. These materials should be designed primarily for remote learning by extension studies, but should incorporate active practical learning modules, regular components of face-to-face instruction and regular group learning components.

v. Institute of Justice & Applied Legal Studies

In addition to this program of courses, USP operates 7 institutes to conduct research, consultancies and short courses. One of these is the Institute of Justice & Applied Legal Studies.

The Institute of Justice & Applied Legal Studies (IJALS) is based in Suva and was established in 1995 to meet the research, developmental, technical assistance and continuing legal education needs of the region, by providing a focal point for the study of justice and law in an applied sense.

The Institute houses three divisions: legal practice, continuing legal education and research and technical assistance. The legal practice division is primarily concerned with vocational training, clinical legal education and conducting the Professional Diploma in Legal Practice (PDLP) to meet the requirements for admission to practice.

The division of continuing legal education is, as outlined in the Law at USP Handbook, concerned with:-

the ongoing requirements of legal practitioners, *judicial officers*, para-legals (for example court clerks) and the wider community (particularly through legal literacy and 'rights' programs). The Institute in this role serves to identify such needs and to coordinate the delivery of applicable courses.

Some recent examples of training courses conducted by IJALS include a legislative drafting course, advocacy training and a judicial training project conducted in Vanuatu last year. The institute is presently embarking on developing a local orientation course for the admission of lawyers qualified outside the region. This 3-day orientation will feature the constitutional, the court system and role of customary law, interrelationship between international and domestic law, criminal and civil procedures and selected aspects of legal practice.

The research and technical assistance division provides a platform for individual research projects in areas of contemporary "justice" concern which highlight the administration of justice and law reform as priorities. Recent examples of projects include the initial judicial training survey undertaken by Professor Richard Grimes referred to in this report, and important research and development work presently being undertaken on legal disability, human rights education and the establishment of a Pacific Centre for Human Rights.

Establishment

At present, the institute is administered by a small but highly professional and committed staff. This staff consists of the director, Professor Mere Pulea, a prominent local legal scholar and researcher who is held in high regard throughout the region, an extremely efficient and indefatigable administrative assistant and a very willing secretary.

Early in 1999, IJALS will move to impressive new facilities at the Marine Sciences campus in Suva, which will provide fully renovated office facilities, access to a 300-seat lecture hall with ceiling-suspended projector, workshop rooms, and 24-suite visitor accommodation wing with two on-campus restaurants.

Judicial training role?

IJALS is the only organisation within the region to assert a role in judicial training. To date, this role has principally consisted of supporting the preliminary research associated with the Grimes Report, and supporting this writer in undertaking this project.

The strengths which IJALS would give to the administration of any program of judicial training include the following:

- a. *Positioning* - USP and IJALS are well known and highly respected institutions throughout the region.
- b. *Synergy of mission* - The mission and objectives of IJALS are compatible with those of this project – the training of judicial service officers.

- c. *Facilities* - As an institute of USP, IJALS has full access to all campuses and centres in each member country, and can utilise its unrivalled educational facilities and resources.
- d. *USPNet* – moreover, to the considerable benefit of coordinators and participants alike, IJALS has full access to the USPNet, providing immediate access to the *only* integrated computer-network throughout the region, providing email, bulletin board, news groups and discussion group facilities, as well as full www browser-capability.
- e. *Library* – IJALS is developing a specialist law library with access to the internet and on-line facilities, staffed by a librarian.

Some perceived weaknesses which IJALS might bring to the project include:

- a) a resistance in some Pacific nations to what is apprehended to be Fijian imperialism;
- b) allied to (a), a dis-ease that IJALS is an inherently centralised facility lacking any demonstrated commitment or capacity to deliver localised national training throughout the region;
- c) discomfort in some judicial circles that an academic institution is not ideally aligned to judicial interests and is under-equipped for the predominantly practical nature of a judicial training program; and,
- d) concerns that IJALS is fully extended and is already at risk of overreached its capacity to sustain existing commitments.

While these may be legitimate concerns in the minds of some, they are readily discounted by others. In the jargon of the SPC, this is a time for “pragmatic” decision-making in the establishment of judicial training in the region. Ultimately, if the overriding imperative of donors to minimise incurring significant costs of establishment is to be heeded, then the crucial question is: *what better options exists?*

Certainly, other options do exist: the project could be based in some way in a major court in the region - presumably the largest - being either the National Court of Papua New Guinea or the High Court of Fiji. Alternatively, it could be associated with either of the schools of law at Port Vila or Port Moresby. Then again, the project could be transposed to Auckland or even Sydney.

None of these options is however likely to replicate the advantages offered by IJALS, in terms of ready local access to educational expertise, resources and communication facilities. Moreover, there is a risk of replacing perceived disadvantages with other risks of potentially greater magnitude of their own. These alternative risks include:

- loss of regional judicial ownership - in the event that the project is placed elsewhere than beneath the Council of Judicial Education,
- loss of expertise and facilities, and marginalisation of core mission - in the event that the project is placed in a court,
- alienation from the centre of the region - in the event that the project is located in Australia, New Zealand or farther afield.

The requirement imposed in the terms of reference to deliver judicial training projects in the immediate future militates against allocating time and resources to creating new establishments at this stage.

In my assessment, IJALS is fully extended to service its current program of commitments at present; it is, however, clearly capable of providing a compatible resource-base for any program of judicial education in the future.

It is recommended that the South Pacific Judicial Conference approach IJALS to establish a collaborative arrangement for the delivery of judicial training throughout the region.

b. Judicial training in the region

Although IJALS is the only organisation in the region specifically dedicated to judicial training in its mission, there have and continue to be some notable training initiatives in the region which have historically been actively promoted and supported by donors. This sponsorship has generally been provided through funding of ad hoc projects, the establishment of regional institutions such as the Forum and USP, and ongoing scholarships programs. The Grimes Report documents the judicial training projects conducted in the region, and there is no need to list those activities again in full here. They have consisted of conducting short training courses, usually of two or three days in duration, and publishing bench books in various countries. Overall, however, what training has existed has tended to be ad hoc, fragmentary and quite uneven in quality and effectiveness. This reality has been asserted by the Grimes Report, endorsed by the South Pacific Judicial Conference and universally confirmed by all those consulted throughout the region during this project.

It is useful to assess the experience of judicial training in the region, however modest these initiatives may have been, for any lessons which this experience may offer for the future.

i. Magisterial bench books

The Pacific Aid Management Office of DFID, through its Regional Legal Advisor, Mr Kim Stanford-Smith, has until his recent departure been the pioneer of judicial training throughout the region and a prolific publisher of bench books for magistrates. These bench books, or court manuals, vary from court to court but are uniform in outlining key provisions of the law and providing practical assistance to judicial officers in daily procedure. They are a major resource and potentially extremely useful.

Consultations indicate that these they are highly regarded. There are however some disappointing indications that these bench books are not regularly used, illuminated by inspection of editions totally pristine and unsullied in their condition. There are various reasons for this low usage:

- a. *Too basic?* - These bench books have been designed at an elementary level as introductory guides. This is certainly initially appropriate, but it does significantly limit the utility of the bench book as an ongoing resource.
- b. *Irrelevant* - Candid discussions with magistrates have also revealed that they find the books do not address their practical needs in court. It is also evident that economies derived from adopting a “cutting and pasting” approach from one jurisdiction to another

which fails to really address local needs - and is evident in some but not all bench books in the region - is flawed.

- c. *Inaccessible* – Magistrates also observed that they found the predominantly discursive, essay-like style and lengthy recitals of principles to be impenetrable and inaccessible.
- d. *Lack of ownership* – It is understood that considerable expertise and energy is required to produce a reliable bench book. There are however indications of a lack of “ownership” by recipient courts. This is apparently caused by a lack of any local stake in the production process: the bench books have generally been written and produced *for* the courts, rather than *by* them.
- e. *Lack of training in use* – Possibly the most practical lesson from this experience is to provide not just introductory but also continuing training structured around the framework of the bench book. This suggests the need for a closer integration of workshop and publishing programs than has previously existed.
- f. *Out of date* - Finally, there is a need to revise and update these bench books which is rarely met resulting in their becoming obsolete and dangerously inaccurate.

It is recommended that an active program of bench book writing and revision be introduced throughout the region.

ii. Magisterial training – Kiribati 1996/7

The Judiciary Project in Kiribati was funded by British ODA (DFID) between 1995/7 to strength the judiciary by employing the chief justice, chief registrar and magistrate trainer.

This project focused on making the law accessible to (lay) magistrates so that they can understand and apply it. A bench manual was written in I-Kiribati which encompasses the main aspects of magistrates’ work and explained underlying legal principles. A ten-day training course was conducted for court clerks to explain the substantive law and to enhance their ability to assist magistrates. A week-long training course was also conducted for magistrates. Significant time was devoted to conducting these courses locally as logistically and culturally it was not considered appropriate to bring lay magistrates to South Tarawa for their training. Thereafter, it was intended to conduct a second round of more participatory training courses on applying the law, also involving a community-education element. It is significant that from the outset, the magisterial trainer diagnosed that “it is not possible to meet all the training needs within the present two-year contract.”

Although it was hoped and intended that the training program would continue as a series of annual events, it has unfortunately neither been fully completed by the trainer, nor extended by the donor.

iii. Judicial training project - Vanuatu 1997

A course was offered to five unqualified magistrates and court clerks in Vanuatu last year building on the foundation of the previously-existing USP certificate in law. This course was developed in response to the Judicial Services Commission of Vanuatu identifying the need for a long-term strategy for the training of all magistrates, lay justices and related court staff.

A component of this course was a unit in magisterial studies designed to provide knowledge in law, procedure and skills to put into practice in subordinate courts.

Although this pilot program was not been extended by donors, it is encouraging to observe that all participants have elected to continue their legal studies in law on their own initiative and at their own cost and propose to enrol in full-time degree studies if/when approval is provided by their employer, the Ministry of Justice.

iv. Other training

A number of NGO's throughout the region conduct active training programs. In particular, the Pacific Regional Human Rights Education Resource Team (RRRT), funded by British DFID, and the Fiji Women's Rights Movement conduct *gender equality* workshops for law and justice professionals, and *community legal literacy* and *human rights education* programs throughout the region. These programs are held in very high regard.

The Pacific Islands Law Officers Meeting (PILOM) conduct training courses in the region from time to time. For example, PILOM conducted a week-long workshop on *litigation skills* for lawyers from ten Pacific islands countries in conjunction with IJALS on the Laucala campus of USP in October 1998.

Overseas conferences and training courses have been attended from time to time by judicial service staff from throughout the region. These most frequently include the South Pacific Judicial Conference, and regular conferences of LAWASIA and the Australian Institute of Judicial Administration.

Significantly, an additional number of judicial officers and court administrators have recently undergone faculty development training (*train-the-trainer*) with the Commonwealth Judicial Education Institute in Ottawa, and the National Judicial College at Reno. Many of these personnel have expressed an ongoing active interest in judicial training and have offered their services as national coordinators, referred to elsewhere in this report.

Mr Robert Hardy-Pickering recently conducted two *magisterial training* workshops in Tonga in mid-1998, funded by AusAID. These focused on statutory interpretation, decision-making and delivering judgments, ethics and sentencing.

The University of Central Queensland (UCQ) offers training in Suva in selected law units "from time to time" when there is sufficient local demand. These courses, which include business law, contracts, and Australian company law, form a part of their business degree programs. UCQ does not offer a law degree either in Suva or Australia, nor does it have any intention to do so in the foreseeable future.

The Public Service Commissions of various countries from time to time offer generic occupation training for government employees. While these programs vary, they are typically donor-funded using expatriate presenters and include 1-5 day short courses in *communication skills*, *time management* and *client service skills*.

c. Lessons to be learned

While this review has surveyed only a modest sample of training activities, an evaluation of this experience is useful in illuminating certain local lessons for future purposes:-

- i. *Localise assessment of needs* – there is an imperative to assess the needs for judicial training at a local bench-specific level. While it is attractive to economise on the development of training projects wherever feasible, there are discernible dangers in adopting a purely aggregated approach across the region. This must remain the initiating task of local coordinators and national education committees.
- ii. *Cultural adaptation* – a similar danger exists in minimising the need to rebuild the styling of courses and materials to accommodate local cultural considerations - what has worked well in one Pacific nation may be unsuited in another with the same needs. An example of this is provided in the cut-and-paste modification of a successful bench book to another nation with a markedly more oral tradition.
- iii. *Ownership* – sustainable training benefits can only be built from a foundation of local ownership and genuine government commitment to institutional strengthening of the courts.
- iv. *Integration* – there is an ongoing need to interrelate, cross-support and consolidate conferencing and publishing training activities.
- v. *Strategic timeframes* – while short term training interventions are clearly beneficial in addressing certain needs – and, for this reason, justifiably attractive to donors - they are limited in their effectiveness to redress major underpinning deficits of professional knowledge, skills and outlook which require the supplementation of medium-long term strategies.
- vi. *Realistic expectations* – setting realistic and attainable objectives are critical to the success of training projects. Consideration in the design of training projects must recognise factors which impede implementation at the local level. These include generally unreliable communication systems, scant resources and fragile administrative infrastructures restricting even basic secretarial support in outer islands, considerable costs and delays in transportation inherent in the social dispersion and geographic distances in the region, and the need for continual reinforcement of training effort to effectively address training needs.

4. Risks, challenges and constraints

No training project can operate in a vacuum.

Within the Pacific regional environment there are a number of factors – whether these be described as risks, challenges or even constraints - which may delay or prevent the achievement of the projects outputs and objectives. While none of these risks is such as might predictably call into question the viability of this project, some do however have a significant potential to affect its operation and implementation.

a. Regionalism and diversity

Foremost in any inventory of risks, challenges and constraints confronting judicial training, is the underpinning decision to embark on a regional approach. Attractive as it most certainly is to economic management and feasible budgeting, the principal risk of this project lies in the assumption that an aggregated regional approach to judicial training is educationally sound and jurisprudentially feasible. Thus, the major challenge of this project is to find the critical balance between effective educational servicing and fundability.

In a very real sense, environmental considerations dictate that a regional approach to judicial training in the Pacific is the only economically feasible approach. Geography, smallness and dispersion impose overriding pressures for island nations to aggregate and cooperate. As pointed out by the Pacific Community:-

Spread over 30 million square kilometres, more than 98 per cent of which consists of the Pacific Ocean, the Pacific region is vast. Of the 7,500 islands in this region, only some 500 are inhabited. The isolation implied by these statistics complicates communication, administration and the provision of even basic services.

Although the region is home to just 0.1 per cent of the world's population, it features one third of the world's languages, with over 700 languages spoken in Papua New Guinea alone.

Per capita, the region is still one of the most heavily aid-assisted in the world, but economic growth has been marginal, giving rise to the so-called "Pacific-paradox." Small physical size, remoteness from the main trading centres, the lack of arable land in many countries and territories, and a rapidly-growing youthful population are just some of the challenges.

What makes this risk so significant is the extraordinary diversity of the region which threatens to defy the aggregation inherent in a regional or cooperative approach. To address this risk, it is first necessary to review the nature of this diversity.

Diversity is the characterising quality of the Pacific in many fundamentally significant ways – pithily put by the South Pacific Forum in the motto: "*Unity in Disunity.*" Diversity exists in race, culture, custom, history, tradition, language, size, wealth, development and, of course, law. Even within each country, there is marked diversity between customary and more traditional people and their more urban educated counterparts. It is trite to observe that the

specific needs for judicial training are different and distinct in each Pacific nation and indeed from court to court.

i. Cultural diversity

Many agree with the South Pacific Forum that cultural inheritance and diversity in the Pacific is more usefully recognised and addressed through the adoption of a sub-regional rather than a regional approach:

“Anthropologists have separated the Pacific Islands into the three major sub-regions of *Melanesia* (a western sub-region broadly including Papua New Guinea, Fiji, Vanuatu, the Solomon Islands and New Caledonia), *Polynesia* (a south-east sub-region broadly including the Cook Islands, Tuvalu, Polynesia, and Niue), and *Micronesia* (a northern sub-region broadly including the Federated States of Micronesia, Nauru and Kiribati), based on their ethnic, linguistic and cultural differences. The physical sizes, economic prospects, endowments of natural resources and political developments in these sub-regions suggests that the groupings are useful, if not indisputable” (emphasis and brackets added).

Moreover, experienced local trainers support this cultural distinction and advocate that it is more meaningful and useful to develop, design and deliver training programs which explicitly acknowledge, reflect and address these sub-regional characteristics.

It is recommended that training be delivered on a national, sub-regional (Melanesia, Polynesia and Micronesia) and regional basis as appropriate.

ii. Political diversity

Political development of nations of the Pacific is likewise diverse. Most, but not all, exist in the post-colonial phase of their development, being less than a quarter of a century old. A number are still non-sovereign territories, governed by the United States, France and New Zealand. These differences in the governance of nations have an obvious and discernible impact on the development of law throughout the region which, in turn, has direct implications on the administration of judicial systems. Having said that, Powles observes:

“The Indigenous peoples of the South Pacific have re-asserted their identity as part of the decolonisation process and are continuing to insist that their ethnic inheritance is entitled to recognition... While each state and territory has distinct cultural features, and each combination of laws and governmental institutions is unique, Pacific societies can be arranged into groups which share similar inheritances of introduced systems of law and forms of government ... Regional cooperation in economic concerns and selected political action has brought Pacific lawyers together across the broad groupings ... cooperation in legal matters within each group is growing.”

iii. Legal diversity and pluralism

The legal systems of Pacific nations likewise are diverse and pluralistic in two significant senses: legal inheritance and legal influence.

Legal inheritance - customary law

First, customary law remains a central organising feature of many societies within the region on a day to day basis, different in each country, island, district and even from one village to the next. In general, local customary law continues to apply to matters affecting land, succession, and matrimonial affairs.

Differences of approach between customary and introduced legal systems impose fundamentally complex tasks on judicial officers – most particularly, on lay magistrates exercising dual customary and European-based jurisdictions of first instance – to reconcile the customary approach. Customary law tends to favour a conciliatory process focusing on underpinning family group and community interests, while the European-based approach focuses on adjudicating individuals' rights within an intensely adversarial process.

A topical and contentious illustration of these differences - the complexity of the inter-relationship and, indeed, the collision between customary and introduced approaches - is found in domestic violence. In Fiji, the customary practice of "*bulu bulu*" provides that the family of a man who has raped his wife or another woman may offer amends to the family of the victim through the gift of a whale's tooth. Such a gift is prized, and has traditionally been accepted by the woman's parents in reparation for this crime. While increasingly rare today, lay magistrates are still regularly called upon to assess the mitigating effect, if any, of such conduct. And, they are expected to do so without any formal training whatsoever!

Second, an inheritance of the colonial era is introduced European-based law which, itself sub-categorised into the Anglophone and Francophone system. This introduced law applies to most commercial, criminal and to central governmental activities.

Legal influence - common law systems

The common law approach prevails in most island nations throughout the Pacific region. Even within the common law domain, however, there are discernible spheres of influence reflecting different English, American, New Zealand and Australian traditions, precedence and approach.

Legal influence - continental law systems

While significantly less pervasive than the common law, the French "civil" approach continues to operate in a number of Pacific nations being New Caledonia, Polynesia and Futuna, and has historically influenced the condominium approach operating in Vanuatu.

Differences in the common law and civil law approaches to justice involve quite fundamental differences in the structure of legal systems, the process of development of law, the judicial selection and appointment process, the nature of the judicial role, and the availability, structure and purpose of judicial training.

iv. Diversity of training need

Added to this is the diversity of specific training needs of participants in the justice system, which have been identified in Section 2 of this report. The variety of these needs is determined by national identity, jurisdiction of court, professional role and prior training.

Having said that, these risks of diversity are surmountable. The earlier analysis of the needs for judicial training reveals an essential homogeneity throughout the region. Within common law countries, there is a good deal of commonality in the needs to develop an understanding of legal process, the judicial role, and the fundamental skills and disposition of judging. Added to this, the existence of the South Pacific Forum and the Pacific Commission reflect the reality of regional identity and the prevalence of cooperation in the region. USP stands testament to the viability and sustainability of a regional approach to homogeneous educational needs. And the law school, in particular, has had to grapple with the many practical challenges of training law across the diversity which exists in the region.

This survey does however highlight the very real risks which are inherent in any cost-driven approach to aggregation of needs and standardisation of services; any regional approach is tempted to glide over the enormity of the diversity in the Pacific region. These risks must be addressed in rigorous bench-based assessment of specific training needs, and the painstaking local adaptation of all training services during the implementation phase of this project.

b. Smallness

Smallness impacts on the logistics of training delivery at many crucial levels: small dispersed target populations render economies of scale very difficult to attain - training investments in this region are relatively very expensive per beneficiary. It is likely to mean that the few experienced judges, magistrates and trainers in the region will be pressured to spread themselves thinly over many worthy projects. It also means that shortages of resources restrict local capacity to provide capable counterparts and administrative support.

Moreover, local commentators, such as Chand and Nath, argue that many nations in the Pacific have unique cultural problems stemming from smallness, the prevalence of kinship and the lack of social distance between the judiciary and the community it serves, which have a corrosive impact on western notions of governance, accountability and transparency.

Smallness, for example, tends to significantly erode the precept of social distance integral to all European-based concepts of jurisprudence. As Kalauni, Haioti and Johns observe, in relation to Niue,

- “Niue has fewer than 2,500 inhabitants. Six of them are adjudicators. Others perform similarly important functions ... beside their judicial functions (they) have other functions and community roles to perform. They have family, church, village and national obligations and connections. Each must fish, plant and share within the community. Their day-to-day lives involve contact with potential complainants and offenders alike. Because they are intertwined with the community, the problems of influence, pressure and possible bias are very real.”

More particularly, cultural notions of kinship are at odds with notions of judicial independence which are central to the judicial role in European-based systems. Kinship is a key feature organising all traditional societies which refers to ties of common blood, language and custom. Kinship is fundamentally based on a reciprocal relationship: when one party dispenses resources on the basis of ties of blood, language or custom, it receives in turn proportional returns from the kin. But, this characteristic of kinship – reciprocity – may appear as a lack of accountability and even as corruption in the western tradition. As Findlay

observes “opportunity in so many situations is predetermined by custom status and obligation.” It is no oversimplification to assert that traditional tribal norms of kinship collide with imported western precepts.

Thus, smallness, kinship and custom confront the judiciary in many subtle but pervasive ways, beyond obvious shortages in resources, in administering the judicial role. In small communities, kinship – in terms of just knowing, if not being related – to all the parties in a dispute, pervades daily life. The impact of smallness on western, urbanised, concepts of judicial identity, independence, integrity, and probity are profound and, for the most part, unexplored. Should a judge disqualify him/her self from most cases, as they would in a large urban community? And if so, who does this leave to hear the case: expatriates appointees? But, does this not, in turn, increase dependency on foreigners and thereby conflict with overriding strategies of localisation?

In such an environment, it is legitimate to question how an introduced system of European justice can operate effectively. To address this fundamental challenge, any program of judicial training must place particular emphasis on explicitly explaining the judicial role and in clarifying very basic aspects of judicial conduct and ethics.

c. Other risks

Equally prominent in any inventory of risk are the following:

- *Under resourcing: shortages of local experience* - The reservoir of professional experience within the judicial service is modest throughout the region. The resulting lack of experienced role-models limits the efficacy of on-the-job training, and formalised occupational training is almost invariably non-existent beyond an elite minority attending university. This risk is addressed through the appointment of designated mentors and the involvement of expatriate judges as instructors in this project.
- *Under resourcing: shortages of personnel* – Added to this, in many nations, employment in the public sector is “frozen” for economic reasons, leading to endemic shortages of staff at all levels. While availability of local counterparts is often severely limited, this constraint is specifically addressed through the appointment of national coordinators for this project.
- *Under resourcing: lack of equipment* – Under resourcing is an endemic weakness of public service and, no less, the judicial service throughout the region. Computers and court recording facilities are virtually non-existent in many jurisdictions, typewriters are in short supply in some, copying paper is rationed in others. While judicial training can redress deficits of professional competence, many deficits in the performance of the judicial service are at least partially dependent on the availability of equipment. Comment is made elsewhere in this report on the imperative to develop and coordinate adjacent strategies to address these underpinning resource challenges. The impact of this risk on the project is to require that budgets for training be drawn to ensure, for example that all consumables be supplied at a regional level.
- *Geography* – The Pacific region is an extraordinarily large, dissipated region which imposes very considerable challenges of travel and communication in delivering and implementing any training program. As was demonstrated in the Kiribati judicial training

project, travel is “arduous,” prohibitively expensive, slow and often unreliable. Conventional communication using post, telephone, and fax remains equally unreliable even between some capital centres. These constraints must be addressed when planning, budgeting and scheduling training activities and communication strategies, and satellite and electronic media should be harnessed to transverse distance wherever viable.

- *Post-colonial legacy* – Reconciling the complexities inherent in the divergent indigenous and colonial inheritance of legal systems throughout the region is another significant challenge confronting those charged with the administration of justice – particularly lay magistrates presiding in local courts of first instance where mixed customary and European-based jurisdictions often co-exist. As Pulea explains:

“Most laws in the Pacific are taken from Anglo-Saxon law or the Continental Code, and one wonders whether some of the preventative and curative measures are appropriate for the Pacific communities. Judges and magistrates are viewed as being so remote that there is reluctance and fear on the part of recipients of the service to state their real need ... (moreover, there is a) lack of knowledge of non-local magistrates and judges of the traditions, culture and tradition of the community in which they live.”

Moreover, proceedings are usually conducted in English, a language not readily understood by some indigenous people, requiring the services of interpreters who are either not available or inadequately trained. Addressing these challenges with local sensitivity is crucial to developing useful training curricula.

- *Change* – At a societal level, the Pacific region is undergoing quite dynamic transformation in terms of governance, politics, mobility, trade, the introduction of cash economics and education. In economic terms, the “legal services industry” is also significantly affected by growth and change: this year, for example, the legal profession of Fiji has increased in size by some 20% with the influx of new graduates from USP. This growth will in due course be replicated throughout the region. Significant related change is evidenced in law development and reform programs and the introduction of legal aid facilities which will increase both demands and expectations of the courts. These changes are constantly redefining the broader environment within which the courts must operate and deliver services, and they impose immediate demands on the providers of judicial training to adopt a highly pro-active role in anticipating and responding to ever changing needs and conditions.
- *Local commitment* – Effective implementation of this training project depends on local commitment, political will and ultimately sustained financial endorsement, which are discussed in greater detail in the funding section of this report.
- *Coordination of donor effort* – In order to minimise the potential for fragmentation of development endeavour, it is desirable to establish a mechanism between donors to ensure the coordination, integration and continuity of judicial and legal institutional strengthening projects and activities in the region. This is discussed in greater detail in the related strategies section of this report.

This project facilitates the development of sophisticated professional competencies within an operating environment defined by overarching risks, challenges and constraints. While attainment of the objectives of this project are certainly attainable, they should be recognised

as also being ambitious. Sustaining the development of judicial competence throughout the region will require incremental change, constant coordination of related strategies and ongoing support in the years to come.

Section 3 - Business Plan

1 *Eight guiding principles*

Taking into account the assessment of needs, the availability of resources, the benefits of local experience and the prevalence of risks existing within the operating environment of this project, it is useful to distil some overriding guiding principles with which to develop, plan and implement strategies of judicial training throughout the region.

Some operating principles

5. *Judicial ownership* - There is a doctrinal imperative for judicial education to be judge-led and court-owned, if it is to be successful in strengthening an independent and professional judicial system.
6. *Bench-specific, national focus and decentralised delivery* - While it is educationally most effective that training should be designed and delivered to meet specific local needs wherever economically feasible, some training however should be conducted on a regional basis to provide opportunities for networking and the exchange of experience.
7. *Capacity-building* - There is an overarching need to build regional commitment and capacity to deliver sustainable judicial training, rather than to create a system which is either donor driven or dependent on external expertise.
8. *Sustaining incremental medium-term change* – In view of the profound deficits in training and experience, all project strategies should be directed towards consolidating a sustainable foundation of judicial expertise. This objective can only realistically be attained through medium-term incremental development, and avoidance of the dangerously seductive appeal of “quick-fixes.”
9. *Resource utilisation and coordination* - In view of the scarcity of available resources, all reasonable efforts should be made to maximise, rationalise and coordinate the use of existing resources within the region whenever they are available.
10. *Bottom-up priority* – In light of the substantial size and profound nature of the deficits of judicial competence identified in the lay judiciary, the overriding priority of all training endeavours should focus on developing basic legal knowledge, practical judicial skills and judicial outlook in courts of first instance.
11. *Consolidate judicial identity* – All training endeavour should address the specific and local needs of judges, magistrates and court administrators. Wherever appropriate, this training should be designed and delivered locally; equally, wherever possible, this training should consolidate judicial identity by training all participants together, for example in case management. On other occasions, streamed training will be more relevant and effective.
12. *Invest in future technologies* – Although access to judicial information and communication technology throughout the region is still extremely constrained, if not non-existent, this project should embrace what the future offers rather than trying to

catch-up. Within the limits of viability, computer-based learning and research should be made integral elements of all judicial training as we enter the twenty-first century.

2 Objectives of judicial training

The principal justifications for judicial training are:

- i. The judiciary needs to be strengthened in exercising its role as guardian of the principles of good governance, accountability and transparency already endorsed by Heads of Government at the South Pacific Forum;
- ii. Strengthening the rule of law promotes economic development by protecting financial investment and trade.
- iii. The courts protect the citizen from political oppression, commercial exploitation and the abuse of fundamental human rights, such as the prevalence of violence against women.

Three overarching needs for judicial training have been identified. These are:-

- a. (Re-)train incumbent lay justices and magistrates
- b. Induct new judicial appointees with formalised training and on/off-the-bench support
- c. Support and develop all judicial service personnel (that is judges, magistrates and court officers) with continuing on-the-job professional education, training and development.

In order to address these needs in a strategic manner, the following framework of development objectives, immediate objectives, outputs and activities is outlined for this project. These are outlined below:-

a. Development goal

- ◆ Quality, efficiency and effectiveness of the rule of law improved.

Immediate Objectives

- ◆ Professional competence of judicial service personnel developed through *short term* training and capacity-building.
- ◆ Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

b. Project outputs

- ◆ All members of the judicial service (judicial officers, lay justices and magistrates and court officers) trained within the region
- ◆ Governance structure, policy development process and program administration mechanisms for judicial training established
- ◆ Faculty of regional and national judicial training coordinators appointed and trained
- ◆ National judicial education committees established

- ◆ National judicial training needs assessments undertaken
- ◆ Local capacity created to plan, conduct and manage an program of continuing judicial training developed throughout the region and in each country
- ◆ New bench books produced and existing services revised
- ◆ Induction course developed and conducted
- ◆ Judicial mentor scheme established
- ◆ Regular conference mechanisms established
- ◆ Regular workshop mechanisms established
- ◆ Bulletins published
- ◆ Extension learning packages developed
- ◆ Degree-level training courses for lay magistrates and justices developed
- ◆ Diploma-level training course for lay magistrates and justices developed

c. Project Activities

- ◆ Faculty development training conducted - once annually for Years 1 and 2
- ◆ Bench books and court practice manuals published - x1 new and 5 revised annually
- ◆ 5-day residential orientation course for new judicial appointees conducted - once annually
- ◆ Mentor program established - conducted continuously
- ◆ Regular annual conferences for judges, magistrates and court officers introduced and conducted - x5 annually
- ◆ Ongoing program of workshops to develop professional skills and attitudes of judges, magistrates and court officers, designed and conducted - x3 annually
- ◆ Ongoing seminar program planned and conducted - x5 annually
- ◆ Bulletin on new laws and cases for judicial officers regularly published - once quarterly
- ◆ Audio and video training recourses produced - once annually

- ◆ Foundation, diploma and degree-level training in magisterial studies and law developed and conducted - x6 new units and x10 revised units
- ◆ Lay magistrates and justices enrolled in foundation certificate of law units
- ◆ Lay magistrates and justices enrolled in magisterial diploma of law courses
- ◆ Lay magistrates and justices enrolled in law and judicial studies degree courses

Each of these objectives, outputs and activities are discussed in detail in subsequent sections of this report.

3. Implementation strategies

Implementation of this business plan should focus on three overarching development strategies: building local capacity, producing training activities, and coordinating related institutional strengthening interventions.

Strategy 1 - Capacity-building

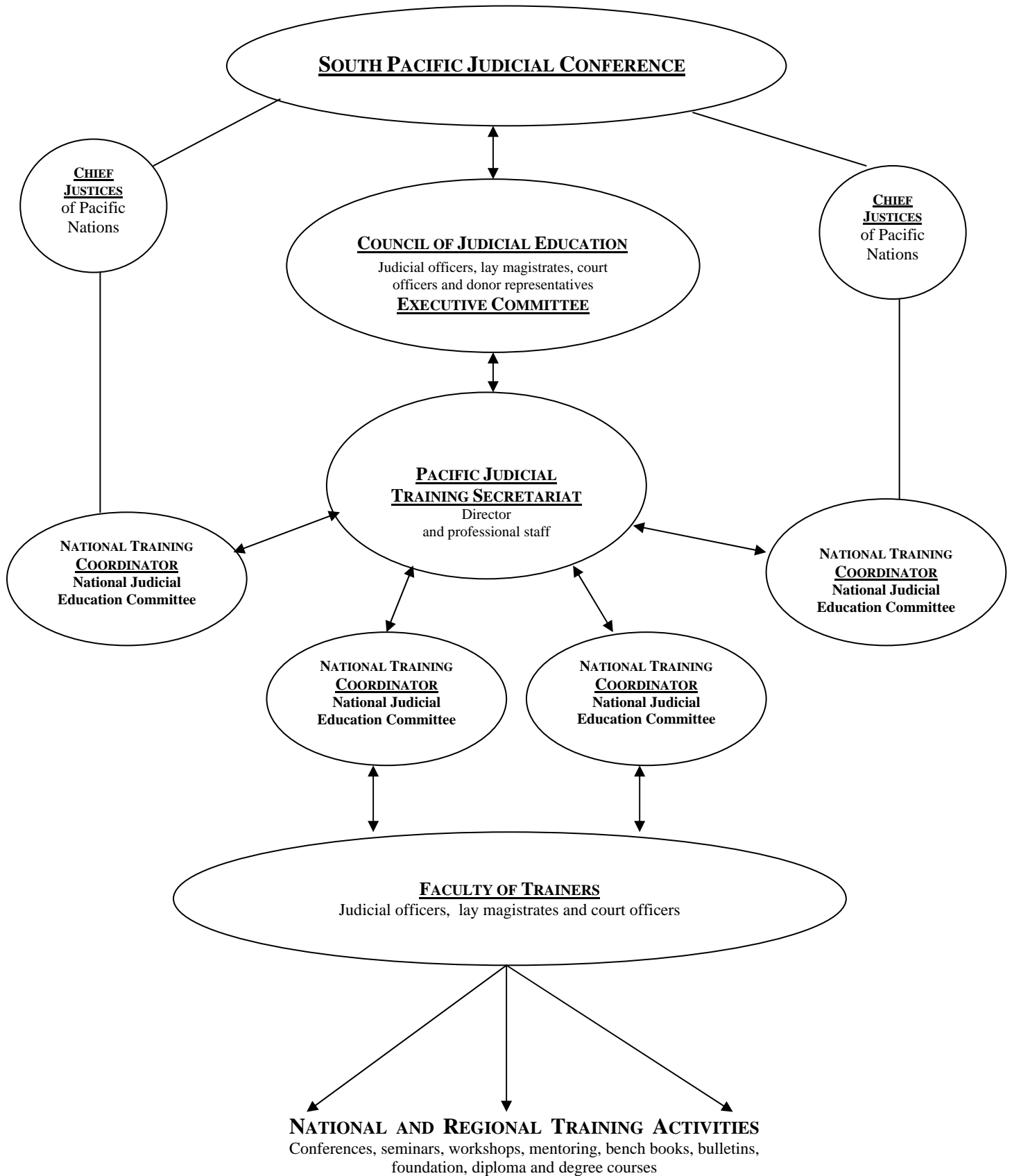
This strategy establishes the *process* to manage the delivery of training activities by creating the operating structure and system of governance to direct, manage and conduct judicial training throughout the region.

a. Operating structure

This structure requires the formation of five entities:

- *Council of Judicial Education (CJE)* - the CJE reports directly to the South Pacific Judicial Conference (SPJC). It is responsible for making policy, setting direction and priorities, fixing standards and overseeing the operational management of the training program. This council is based on the existing Education Sub-committee of the SPJC, and should operate on a day-to-day basis through an *Executive*.
- *Pacific Judicial Training Secretariat (PJTS)* - The PJTS reports to the CJE. It is responsible for all operational matters, manages the program of judicial training activities on a day-to-day basis; and supports the work the national training coordinators. The PJTS is based at IJALS, USP, Suva.
- *National Training Coordinators (NTC's)* - NTC's are appointed in each Pacific island nation throughout the region. They report to their chief justices, and to the CJE through the PJTS. They are responsible to convene the local Judicial Education Committee, and to coordinate the development and delivery of training activities at the local level; and,
- *Judicial Education Committees (JEC)* - JEC's are established in each nation with the agreement of the chief justice. They are responsible to support the NTC's in developing and delivering training activities at the local level.
- *Faculty of judicial trainers (FJT)* - The FJT is formed from locally experienced judges, magistrates, court officers and professional experts to present papers at conferences, facilitate practical workshops, provide computer training, and act as on-the-job mentors and coaches. This faculty is the resource-base of presenters and writers who deliver training services.

b. Organisational Chart



c. Governance

The judiciary must both own and direct the provision of judicial training if it is to be capable of sustaining improvements in judicial competence. There are important reasons for this:-

1. *Judicial independence* - the doctrinal imperative to preserve judicial independence requires not only that there is no actual influence from the executive – potential indoctrination through telling the judiciary what it needs to know or how it should perform - but nor is there any appearance or opportunity for such influence.
2. *Authenticity* - the training needs of judicial and court officers are best known by themselves and, in general, best met by their peers.
3. *Credibility* – the program must be run by those "who know what they are talking about" in order to elicit motivated participation, which is an essential ingredient in effective learning and performance enhancement.

The obvious and most compelling mechanism for instilling this judicial ownership and direction is the South Pacific Judicial Conference.

□ *Mandate of the South Pacific Judicial Conference*

The South Pacific Judicial Conference is the pinnacle judicial professional entity of the region. The SPJC conducts biennial regional conferences and has convened a Sub-committee on Judicial Education of senior jurists from the region. This Sub-committee is presently serving as the steering committee for this project.

It is recommended that specific training projects be conducted by, for and on behalf of the South Pacific Judicial Conference.

□ *Council of Judicial Education (CJE)*

The existing Sub-committee of the South Pacific Judicial Conference is ideally positioned and constituted to assume the executive role as Council of Judicial Education. This council reports directly to the South Pacific Judicial Conference (SPJC). The council should operate on a day-to-day basis through an *Executive*. The role and responsibilities of the Council include:

- a) *Educational policy* – to develop policies for judicial training
- b) *Priority-setting* – to identify needs, and set direction and priorities for training projects
- c) *Oversight* – to oversee the delivery of training projects undertaken by the secretariat and training co-ordinators.

It is recommended that the SPJC Sub-committee on Judicial Education be reconvened as the South Pacific Judicial Education Council responsible for policy-making and coordination in matters of judicial education, training and development throughout the region, and supervision of the management of the training program.

It is recommended that the Council of Judicial Education be chaired by a chief judicial officer and represent the interests of judicial service personnel (judicial officers, lay magistrates and court officers) throughout the region, and donors.

It is recommended that the mandate of both the conference and its education committee be formalised in terms of its membership, constitution and role.

□ *Executive Committee*

It is important that this council be able to operate viably and cheaply in between biennial gatherings of the conference. A working executive committee of five members should be formed, accountable to the full council, to oversee the secretariat as required. This executive committee should be chaired by a senior judicial officer and consist of three judges drawn from different counties, a law-trained magistrate, and a courts administrator. In addition, the director should be a non-voting member of this executive committee. A quorum of three should be required for decision-making purposes.

It is recommended that an Executive Committee of the Council of Judicial Education be formed to oversee the day-to-day operation of the secretariat.

It is recommended that efforts be made to develop an effective process for virtual meetings and electronic decision-making of the council and its executive committee.

d. Establishment

□ *Pacific Judicial Training Secretariat (PJTS)*

The secretariat reports to the council. It is responsible for all operational matters, manages the program of judicial training activities on a day-to-day basis; and supports the work the national training coordinators. The PJTS should be based at IJALS, USP, Suva.

Concept

Initially, this secretariat should comprise a small nucleus of professional and counterpart staff to manage the judicial training program on a regional level. This secretariat should be incorporated, and serve as the "executing agency" for this project.

Although the Grimes Report recommended the creation of a "judicial training centre," more detailed briefing for this project disclosed considerable divergence of opinion on the need for the establishment of a centre.

On the one hand, judges clearly need a dedicated facility and capability to address the unique needs of judicial training. On the other, there is a uniform reluctance on the part of donors to invest any further in "bricks and mortar," and wish to focus expenditure on the immediate delivery of training projects rather than extensive infrastructure and establishment. A coalescence of these interests is reflected in the agreed terms of reference for this project. Added to this is the desirability to decentralise the delivery of training services to the national level throughout the region, wherever feasible. To this extent, the notion of a "centre" is non-conducive to the regional nature of this project.

It is recommended that the training facility be called the "Pacific Judicial Training Secretariat."

In order to focus available funding on service delivery by minimising diffusion on costs of establishment, it is necessary to accommodate this secretariat within an existing administrative structure. The Institute of Justice & Applied Legal Studies is the only entity with a compatible mission within the region. As has been discussed earlier, an association with IJALS is compelling in supplying pre-eminent local positioning, resources and experience of USP throughout the region, and in providing access to USPNet.

It is recommended that the secretariat be established in association with IJALS in Suva.

Accountability and reporting

The secretariat is accountable to the South Pacific Judicial Conference, for conducting the training program, subject to accommodation of the legitimate interests of donors funding the program. In practice, these interests are probably best accommodated at the level of representation on the Council of Judicial Education. This Council will serve as the forum for any "tripartite review" between representatives of the judiciary, donors and the secretariat as "executing agency."

The organisational chart, and the allocation of roles and responsibilities of entities within that chart, provides clear lines of reporting to the South Pacific Judicial Conference.

It is recommended that the Council convene annually, and that the Executive convene as required and as practical, possibly by teleconference, but not less than quarterly.

Relationship with USP, IJALS

Within the regional governance structure provided by the South Pacific Judicial Conference, the secretariat will exist as an operationally autonomous entity working in close physical association with IJALS at USP, similar to the Australian Institute of Judicial Administration (AIJA) which rents subsidised premises from the University of Melbourne.

Under the AIJA model, the Council of the AIJA determines its program of activities. The AIJA employs its staff directly and sets terms and conditions of employment. The executive director is a professorial associate of the university, and s/he is accorded the title of Professor. Staff are paid from the Melbourne University payroll, which is in turn reimbursed by the AIJA.

As far as the secretariat is concerned, such an association with the university offers potentially significant benefits of established educational and administrative infrastructures. It should also be recalled that status as a university body is required for access to the USPNet.

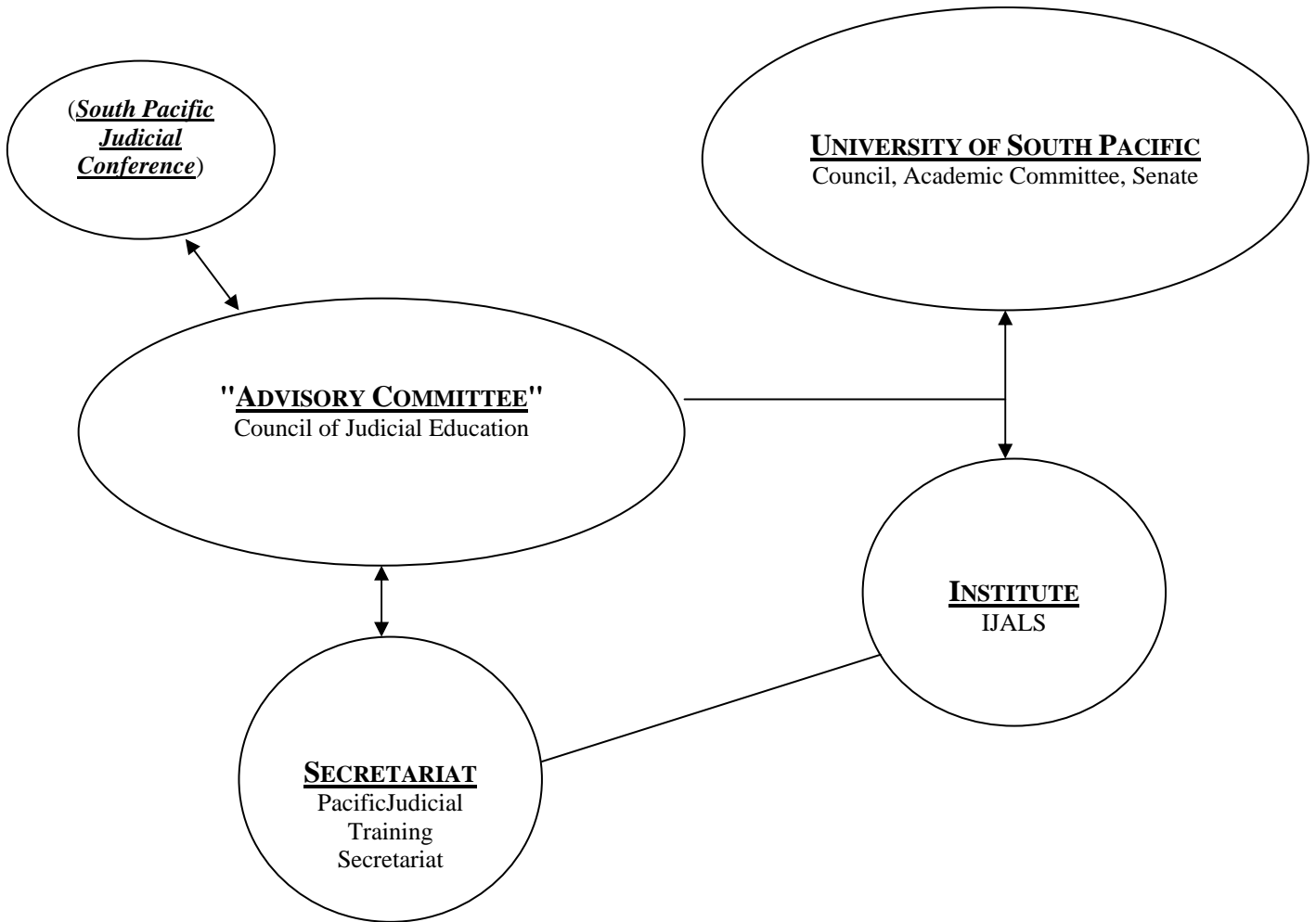
As far as USP is concerned, consultations indicate that the precise nature of any relationship, payment of rents and the recovery of administrative costs, is a matter open for detailed negotiation. It is envisaged that for *academic* purposes (such as accreditation of courses and assessment), and for *administrative* purposes (such as banking, accounting, purchasing, and payroll), the secretariat will operate through IJALS in its dealings with USP. The university is responsive to the notion of the Council of Judicial Education serving as an Advisory Committee within its policy-setting framework, and a precedent for this already exists in the "Bell's Program", a regional community literacy project based at the Institute of Education of USP. While formally reporting to the USP Internal Coordination Committee (ICC), this project enjoys substantial operational autonomy in practice.

As far as IJALS is concerned, it is important that the secretariat is fully-funded, to the extent that IJALS has no existing capacity to subsidise its operation.

Funding for the project can be directed to the secretariat and deposited in a dedicated account within the USP financial system.

It is recommended *that* the terms of relationship between the secretariat and IJALS be provided in a memorandum of understanding - or affiliation agreement - entered between the South Pacific Judicial Conference and the Institute of Justice & Applied Legal Studies, University of the South Pacific in a form satisfactory to donors funding this project.

UNIVERSITY CHART



Role of the secretariat

The principal functions of the secretariat are:

- i. *Advice* - advise the council on judicial education, training and development
- ii. *Management* - implement the policies and directions of the council
- iii. *Activities and services* – develop and deliver the program of training activities and services
- iv. *Coordination* – support national co-ordinators, education committees and the faculty of trainers.

Staffing

The secretariat should consist of a small team of experienced and energetic professionals to provide these activities and services on a regionally decentralised basis.

Staffing the secretariat is activity-driven. A team of five staff is required to produce and deliver the training activities and services that are required to address the needs identified in this report. This team comprises a director, publisher, conference coordinator (counterpart), publications coordinator (counterpart), and clerical officer/secretary.

Recruitment of staff is more attractive than contracting short-term consultants to undertake this work for four reasons:

- (a) recruitment is generally cheaper and more cost effective than hiring consultants to provide related services over the medium term;
- (b) staff will accumulate specialist knowledge and recent experience rendering their services likely to be of higher quality and efficiency than external consultants;;
- (c) recruitment provides a formula for the transfer and acquisition of local expertise integral to any operational strategy of sustainability; and,
- (d) recruitment is capacity-building strategy which invests institutional memory not otherwise available.

□ *Director (professional)*

This is the pivotal professional role in the regional training program. The director is responsible to manage the training program and report to the Council of Judicial Education. It is essential that s/he be an extremely experienced professional in judicial training, legal education or adult learning; and it is desirable that s/he is law-trained and has local experience. This is a highly developmental role which requires vision, initiative and drive. The role is largely managerial but, also, as a “hands-on” trainer. The director is a non-voting member of the Executive of the Council, and acts as regional coordinator of the national training coordinators.

It is recommended that the position of director should be designated the title “Professor” of the University of the South Pacific in accordance with practice elsewhere, for example, the

Australian Institute of Judicial Administration and Melbourne University.

It is recommended that the terms of contract for the director be negotiated between the recruitee and the Council of Judicial Education, and that remuneration for this position be made directly by a donor(s) rather than by USP.

The role of the director should, subject to implementing the policies of the SPJC, be to undertake the following:

- a) Assess training needs on a regional basis
- b) Plan, develop, conduct and manage the conference and publication programs
- c) Conduct faculty development training
- d) Coordinate and support national coordinators and education committees
- e) Evaluate training
- f) Liaise with donors
- g) Promote and lobby for national sustainability
- h) Administer the secretariat.

□ *Publisher/Special Resource Officer (professional)*

This officer will manage the publishing program. This program includes the commissioning, editing and production of new bench books and a quarterly bulletin, and the review, updating and revision of existing services. At various times, there will be needs to undertake special projects, for example, electronic publishing, and launching computer training and associated electronic literacy/legal research training. This officer reports to the director. It is essential that s/he be highly experienced in a broad range of publishing, and it is highly desirable if this experience is in legal publishing.

The role of special resource people will vary according to need, but may include some of the following:

- a) Commission, edit and produce publications
- b) Manage computer and electronic literacy/legal research training
- c) Other tasks to be defined, as the need arises.

□ *Conference and Publication Counterparts (x2) (Professional)*

The role of these counterparts is to provide and support the delivery of training products and services and specifically to:

- a) Administer and support the conference program (conference coordinator/officer)
- b) Administer and support the publication program (editorial coordinator/officer)

These counterparts will act as a “hands-on” trainer and editor. It is envisaged that they will acquire practical on-the-job experience appropriate to equip them to assume principal positions during the commencement phase of this training program.

□ *Clerical officer/secretary (administrative)*

The role of the clerical office/secretary is to support the director in managing the office, and undertaking secretarial and receptionist functions.

It is recommended that a secretariat of five personnel be established comprising a director, a publisher/special resources officer, two counterparts (conferences, and publications), and a clerical officer.

□ *National Training Coordinators (NTC's)*

National Training Coordinators are appointed in each Pacific island nation throughout the region. They report to their chief justices, and to the CJE through the PJTS. They are responsible to localise the delivery of training activities in each country throughout the region. They convene the local Judicial Education Committee, and coordinate the development and delivery of training activities at the national level, with the support of training professionals from the secretariat.

NTC's are the individuals primarily responsible to administer the delivery of training locally. They will be experienced and respected judges, magistrates and court officers who have an interest in professional development. Where appropriate, it is recommended that a judge should coordinate judicial training, a magistrate should coordinate magisterial training and a court officer should coordinate training for court officers. Together they can constitute an education committee, coordinate their endeavours and provide cross-support. This is a part-time role likely to require perhaps 5 hours each month, principally in preparing, conducting and implementing meetings of the education committee.

The role of the NTC's is to:

- a) Chair the national judicial education committee
- b) Prepare agendas and minutes of meetings
- c) Assess the specific local needs for judicial training in each country
- d) Plan and conduct the delivery of local training projects
- e) Coordinate delivery of national training with the director of the JTS
- f) Evaluate national training programs and report to CJE through the director

□ *Judicial Education Committees (JEC)*

The NTC will convene, with the endorsement of the chief justice, a national Judicial Education Committees in each nation. Member of the JEC will include representatives of judges, magistrates and court officers. The JEC is responsible to support the NTC in developing and delivering training activities at the national level.

The formation of education committees provides support and coordination to the delivery of local training to judges, magistrates and court officers. This is an honorary part-time role likely to require between 2-3 hours each month, principally in participating in meetings of the education committee.

The role of the national education committees should be to undertake the following:

- a) Assess the specific local needs for judicial training in each country
- b) Plan and conduct the delivery of specific training projects locally
- c) Coordinate delivery of training to judges, magistrates and court officers nationally
- d) Evaluate national training programs and report to the regional coordinator

It is recommended that education committees convene on a monthly basis for short meetings of between 60-90 minutes.

□ *Faculty of trainers*

The FJT is formed from locally experienced judges, magistrates, court officers and professional experts to present papers at conferences, facilitate practical workshops, provide computer training, and act as on-the-job mentors and coaches. This faculty is the resource-base of presenters and writers who deliver training services.

This faculty may also include either local or expatriate experts although the development and utilisation of local experts should be given priority where available and appropriate. This role is generally undertaken on an honorary basis, but fees will be required for some external professional specialists.

The role of this faculty is to:

- a) Present conference papers
- b) Facilitate practical workshops
- c) Conduct skills training development training
- d) Act as mentor or coach.

It is recommended that all trainers undergo faculty development (train-the-trainer) training. Special experts have expertise in content that is particular areas of training, for example, forensic ballistics, or process, that is judicial and legal education.

e. List Serve

The terms of reference for this project specify that this writer will “implement an electronic mailing list facilitating communication between these judicial training coordinators, and other short-term judicial training projects subject to available funding.” These terms were then qualified to mean “introduce a ‘list serve’ or electronic mailing list between the coordinators.”

A “list serve” is a communication facility to enable accessible and ready networking and communication between coordinators. It is intended that this facility should be “electronic” in the sense of utilising the internet: email, discussion groups, noticeboards, and mail-lists. Indeed, this could extend to “virtual” – electronically interactive remote - conferencing, as means of overcoming the substantial logistical difficulties and geographic distances of the region.

Clearly, there are compelling attractions to harnessing information technology as a means of communicating cheaply and accessibly in a vastly dispersed region notorious for the substantial costs and inconvenience of travel.

Having said that, electronic communication is still extremely limited and often quite unreliable in many Pacific nations. Kiribati, for example, is only now in the process of acquiring email facilities. Even more conventional systems of communication, involving mail fax and telephone, are often patchy in coverage, slow and far from reliable for those used to instantaneous access in more developed parts of the world. Communication between capital centres and many outer islands throughout the region can only be undertaken by short-wave radio or, arguably, satellite telephone.

These constraints in communication are very real and should not be understated. First, they underscore the potential isolation of outer parts of the region, and thereby the special need for regional coordination to support national coordinators in delivering local services. Second, they illuminate how difficult and slow communication and coordination of this project throughout the region may on occasion unavoidably be.

It is within this context that an association with IJALS, bringing with it access to USPNet, is of considerable value to this project. As outlined earlier in this report, USPNet provides a unique and unparalleled communication network facility throughout the Pacific region. This facility presently includes satellite audio-links which operate constantly between Fiji, Tonga, Cook, the Solomon Islands, and Vanuatu, and radio links join Samoa and Tuvalu. This satellite capability will be substantially upgraded by 2000 with the launch of a satellite owned by USP and the establishment of “earth-stations” at all 11 centres. Once operational, this capability will very significantly enhance the university’s remote teaching capability, providing video broadcasting and teleconferencing in audio, video and 4-channel broadcast, in addition to existing data and email capacities.

Thus, the USPNet is designed and poised to play a crucial role in both supporting coordinators, and in delivering remote training for judicial service personnel throughout the region. This facility is however only available to entities associated with the university.

As soon as the network of national coordinators has been appointed, it is a simple task using local USP centre facilities in each country to support them with (a) access to the USPNet, and (b) training in its use.

Strategy 2 – Producing Training Activities

The second strategy *delivers* the visible outputs and activities of this project, being the training products and services which are developed and supplied to judicial service personnel throughout the region: these are the conference, course and publication activities outlined in Sections 4 and 5 of this report.

As has already been seen, the immediate objectives of this project are the development of professional competence of judicial service personnel through short term and medium term training and capacity-building.

Educationally, the concept of “professional competence” is the key ingredient of this project: it defines the deficits which make up the needs which in turn determined the training services to be delivered. Thus a clear understanding of this concept is central to the mission of this project and, in due course, to discerning the means to evaluate its effectiveness.

a. Concept of professional competence

In essence, competence is an aggregate of three elements: knowledge, skills and attitudes required to perform professional and occupational responsibilities to a designated standard of proficiency.

Competence in a practising judicial officer describes the capacity and ability to perform the judicial role, and to provide judicial services, at a designated standard of proficiency in a manner which integrates these three elements.

b. Educational strategies

The purpose of this training program is to develop professional competence. From an educational perspective, this involves a complex developmental process which involves formalised training and the development of practical experience.

In terms of *formalised training*, sub-strategies are required to build each separate component of professional competence, that is: to instil information and knowledge of the law, to develop judicial skills, and to develop judicial attitudes and outlook. While it is an over-simplification to describe that lectures and books provide this information base, and practical workshops stimulate the development of appropriate skills and attitudes, this does broadly describe some of the major educational strategies for attaining these objectives.

In terms of developing *practical experience*, additional sub-strategies are required to provide role-models and mentors to guide the accumulation of good (as opposed to bad) experience, to provide mechanisms for sharing and consolidating experience between peers, and to provide criteria and capability to critically reflect and evaluate one’s experience and performance. Thus, mentor programs and collegial networking activities play important roles in contributing to these objectives.

c. Standards

For training to attain its goal, clear statements of desired standards of competence must be defined. In formalised training, this is relatively straight forward. Universities and other training establishments are experienced and equipped with processes which accredit courses and assess students' ability to attain these standards. The judiciary of the region, together with other stakeholders, should play an active role in collaborating with these training institutions to define where these standards for the judicial service should be set.

For practical experience, this is more difficult. On-the-job, or more appropriately off-the-bench, training by means of structured mentoring programs, peer support and supervision are integral to this process. Once again, the judiciary in conjunction with the other stakeholders in the administration of justice, should play an active role in defining needs and in supplying the resources and mechanisms to instil ongoing professional development.

d. Curriculum

The content of any training program, or curriculum, describes what is taught and how. This report has identified a range of training needs and outlined the broad perimeters for formalised course content and continuing professional development. As has been seen, for example, courses should include information on criminal law and criminal procedure, civil law and procedure, structure of the legal system and role of institutions, land law, judicial ethics and so on.

Additional consideration is also required for the manner in which this training and development is provided. Generally speaking, the educational methodologies for formalised training are *information-based* and primarily didactic (focusing on the transfer of information through lectures or reading), or Socratic (focusing on the integration of that information into knowledge and understanding, through tutorials, questioning and application). The methodologies for professional induction and ongoing development are *process-based* and focus primarily on the consolidation of understanding and on the application of that knowledge and understanding to performance - doing something efficiently and effectively. Obvious examples include developing skills of judgment writing, managing a trial process effectively, and administering cases efficiently.

These broad sub-strategies integrate the training activities and outputs to the training objectives of this project.

e. Matrix planning

Matrix planning provides a means to plan and structure training services to meet categories of educational need in a methodical way, by classifying those services in terms of the nature of educational need which they are planned to meet.

This instrument should be used when planning service strategies to address both shorter or longer term needs, and the needs of judges, magistrates or court officers respectively.

<i>Content Pitch</i>	Substantive law	Court procedure	Judicial skills	Ethics and conduct	Judicial administration management	Inter disciplinary
Induction - orientation						
Update - change						
Networking - problem solving						
Specialist - advanced						
Refresher						

f. Delivery: regional v national

Reference has already been made in Section 2.3 of this report to the risks inherent in aggregating a cost-driven regional approach to this project. Certainly, significant economies can and should be captured by focusing on needs common throughout the region and adopting a regional approach to developing services to address those needs in the most cost-effective manner. In order to maximise educational effectiveness, however, the needs for training should be re-assessed as specifically as possible on a national and court basis. In general, the delivery of training activities such as conferences and bench books should be bench-specific and as local as possible.

There are some instances where it may be more effective - both educationally and financially - to adopt a regional approach to the delivery of services: size, nature of training need and the content of training are examples.

- *Size* - some jurisdictions, such as Tuvalu and Nauru, are so small that there are no resident judicial officers; in others, such as Kiribati, there is only one. In these countries, it may be quite inappropriate, as well as inordinately expensive to deliver a full range of services locally.
- *Nature of need* - in situations where the development of judicial identity and disposition are designated objectives for training, it may be desirable that the delivery of services should be structured to incorporate elements of peer-based learning, exchange of experience, professional networking and the development of comparative perspectives. Training conducted on a regional basis involving judicial service personnel from adjacent countries may be more educationally conducive to attaining these objectives than local training.
- *Content of training* - while substantive law may on occasion vary substantially throughout the Pacific, legal process, the judicial role, and the skills of judging are largely generic to the prevailing common law tradition throughout the region. At least within those jurisdictions sharing this tradition, it is educationally legitimate to adopt a regional approach. The principals of natural justice, judicial ethics, legal research method and case management techniques are, for example, delivered quite effectively - and potentially more effectively - on a regional basis in a broader peer environment.

The issue of local and regional delivery of services is therefore one that should be addressed from instance to instance. At the outset of this project, it is useful to plan a general approach to the training project that balances educational effectiveness and economic sustainability, which can be modified as required in the light of subsequent experience.

It is recommended that training in substantive law (for example, through conferences, seminars and bench books) should most appropriately be conducted nationally; whereas development of skills and disposition (for example, judicial orientation and skills development workshops) should more usefully be conducted regionally.

Strategy 3 – Coordination of legal sector strengthening projects

For judicial education, training and development to be effective in judicial institutional strengthening, there is a need to coordinate the delivery of strategies for strengthening the legal sector within which the judiciary operates. Without integration of these related strategies, this judicial training project will be of limited utility and effectiveness.

Some of the more crucial of these associated strategies include:-

a. Structural reform

Review of the resourcing, structures, roles and responsibilities of all participants in the judicial service, including judicial officers, should be undertaken. Under-resourcing is endemic throughout the judicial service, and many systems are extremely archaic. Four initiatives are pressing:

- i relocate the European-based jurisdiction of the lay magistracy, or implement authoritative and immediate steps to retrain the lay magistracy in law as outlined herein;
- i consolidate and/or establish the pinnacle role of *judge administrator* to assume direct responsibility for case management and coordinate the delivery of judicial and administrative support services;
- iii create the para-judicial role of *master*, supported with appropriate training, to enable delegation to set fixtures, hear pleas, and resolve interlocutory matters: and,
- iv introducing human resource strategies which offer career paths, incentives and rewards for completing professional training.

b. Law reform, development and harmonisation

The capacity of the judiciary to dispense justice is constrained by the adequacy and appropriateness of legislative and procedural frameworks. In many countries throughout the region, there are pressing needs to revise and develop criminal and civil laws and procedures. Commercial laws and procedures, for example, are universally seriously outdated. Laws throughout the region also need to be harmonised. Marked fragmentation of approach is evident not just between anglophone and Francophone systems, but also between American, British, Australian and New Zealand approaches within common law systems.

c. Judicial appointment

Publication and application of clear and consistent selection standards, criteria and procedures for judicial selection are required for an independent and professional judiciary. At present, there are marked discrepancies in both selection standards, merit, qualifications, prior experience and professional standing; and, equally, in appointment procedures. It would also be useful to define formal guidelines which prescribe ongoing arrangements for lay appointments to the bench, mandated training requirements before and after appointment, and terms of appointment.

It is recommended that a judicial appointment standard is set throughout the region for all judicial officers exercising European-based jurisdiction requiring completion of an accredited

degree in law and a diploma of legal practice with a minimum of five years professional experience.

d. Information management

One of the most fundamental and universal problems constraining the operational effectiveness of justice systems is the lack of basic information systems and support on a day-to-day basis.

Court recording and law reporting

Throughout the judicial service of the region, there are substantial establishment needs for the introduction of modern court recording and law reporting facilities. There is no, or no continuous, system of court reporting and the index to precedents in most countries. As has been observed elsewhere in this report, there are glaring and widespread deficits in the availability of court transcripts and up to date law reports – most basic tools which are essential to the efficient administration of justice. It was quite distressing for this writer to observe even chief judicial officers having to devote themselves throughout trials to the role of court reporter, constantly transcribing proceedings in long hand!

Communication technology

The needs for computer support systems are so substantial they warrant special mention. Case tracking systems, judicial research databases and sentencing record keeping are non-existent throughout the region.

Computer technology needs encompass the acquisition and installation of hardware, education on the role of computers for judicial and support staff, practical training in using computers, ongoing support and help-desk facilities. It is sobering to observe not a single computers on any judges' desk throughout my consultations; and it is daunting to find no access to any electronic research facilities within law departments. Email is as yet available only in particular countries and locations, while many islands in the region still do not even have access to telephone and fax. These logistical realities must be addressed for any institutional strengthening strategy to be sustainable.

Library services and access to the law

There are very substantial impediments to accessing the law throughout the region. New legislation is often not immediately published, statutes are rarely consolidated and codified, and reports of important decisions are often seriously incomplete and out of date.

At the most fundamental level, it is imperative that judicial officers have ready access to sources of law – statutes and decisions of superior courts - and that they can effectively research and apply statutory and common law. Court library facilities are usually modest, archaic, incomplete and entirely non-electronic. Throughout the region there are glaring gaps in the availability of consolidated statutes and law reports – fundamental working tools of judicial officers. It is hard to contemplate a more essential resource for judges and magistrates.

File management

Deficits in legal information management systems usually extends to a lack of modern document management systems, with files in some courts being “lost” on a regular basis.

e. Legal institutional strengthening, legal education and professional training

The quality of justice in any adversarial system of justice is dependent on two critical preconditions: the expertise and depth of experience in the professional bar from which judges are traditionally appointed, and the quality of advocacy which drives the entire litigation process. For both these reasons, there is an imperative to ensure that strategies coexist to strengthen the legal profession through training.

At the present time, there are significant deficits in the availability of appropriately trained and adequately experienced legal practitioners throughout the region. The recent graduation and admission of the first cohort of lawyers from the USP law school in 1998 lays the flagstones for this capability, but this reservoir of expertise will require further time - estimated at between one and two decades - to accumulate.

Meantime, both members and observers of the practising profession identify deficits in professional expertise throughout the region pointing, in particular, to weak legal research capabilities and poor advocacy skills in some countries. Some nations are yet to establish a law society and only one, Fiji, conducts a program of continuing legal education for its members.

Moreover, a balanced approach to strengthening each component of the adversarial system must be maintained: significant segmentation of training of defenders and prosecutors creates an obvious potential for uneven advocacy; just as the availability of law-trained advocates appearing before lay justices can create a potential for manipulation of the adjudication process.

f. Access to justice

There are numerous and substantial barriers which impede and restrict free and fair access to justice in the region. Legal aid is virtually non-existent, except through the benefaction of a small number of usually under-resourced NGO’s operating in designated areas. The lack of legal clinics and advice services mean that victims of crime can often only resort to customary remedies or go without redress. Victims of domestic violence often fall totally beyond the protection of the court system. Remoteness is also extremely pronounced for many living beyond capital centres and on outlying islands, adding further to the gulf which separates more traditional people from the service of the courts.

In Fiji, for example, limited legal aid is made available for serious criminal cases, and in 1998 the Legal Aid Act 1996 came into effect to establish a legal aid commission and broaden the scope of legal aid offered.

g. Community “legal literacy” education

Another fundamental barrier is created by the prevailing low level of community legal literacy: ignorance and the lack of understanding of the role and protection of the courts are

widespread and warrant specific community legal education strategies. The efficacy of the judiciary to administer justice in an adversarial system hinges - not just on its own competence and that of the practising profession - but on the knowledge and expectations of civil society whose rights and interests should be protected and advanced by law. The provision of legal literacy programs on basic criminal and civil legal rights is all the more crucial in those countries within the region where there is little or no formalised legal aid provided. Once again, NGO's throughout the region are working vigorously to provide community-based education in basic legal literacy and human rights. These endeavours need significant augmentation, for example, through the development of legal studies modules in the school systems. IJALS has recently advertised for a legal literacy coordinator, funded by NZODA.

h. Forensic capability

The lack of forensic capability of police throughout the region creates extensive delays in criminal investigations and often very low evidentiary standards of prosecution.

It is recommended that regional and bilateral donors establish a mechanism to ensure the coordination, integration and continuity of legal sector institutional strengthening projects, and specifically judicial training activities, throughout the region.

Section 4 - Short Term Activities

Work plan of activities

The following table provides a work plan, or chart of sequence, which schedules the activities of the project.

	Activities	Year 1 1999	Year 2 2000	Year 3 2001	Year 4 2002	Year 5 2003
1	<i>Faculty development</i>	Design and conduct	Review, and conduct	Review and monitor	Review and monitor	Review and monitor
2	<i>Mentor program</i>	Design and implement	Evaluate, review and monitor	Review and monitor	Review and monitor	Review and monitor
3	<i>Regional workshops</i>	Design and conduct	Design and conduct	Design and conduct	Design and conduct	Design and conduct
4	<i>National conferences</i>	Promote, support, pilot and conduct	Promote, support, pilot and conduct	Advise, assist and support	Advise, assist and support	Advise, assist and support
5	<i>Regional orientation program</i>	Develop, design, market and conduct	Evaluate, review and conduct	Review and conduct	Review and conduct	Review and conduct
6	<i>National seminars</i>	Promote, support, pilot and conduct	Promote, support, pilot and conduct	Advise, assist and support	Advise, assist and support	Advise, assist and support
7	<i>Bench books</i>	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)	Publish x1 new annually; Revise x 5-6 revised continuously)
8	<i>Bulletin</i>	Research, develop, launch	Publish x1 quarterly	Publish x1 Quarterly	Publish x1 quarterly	Publish x1 Quarterly
9	<i>Extension packages (x1 annually)</i>	Research, develop and accredit	Research and produce	Research and produce	Research and produce	Research and produce
10	<i>Foundation units</i>	Research, develop and accredit	Write and conduct	Conduct	Conduct	Conduct
11	<i>Diploma</i>	Research	Develop, write and accredit	Write and conduct	Conduct	Conduct
12	<i>Degree</i>	Research	Develop, write and accredit	Write and conduct	Conduct	Conduct

1. Faculty Development

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Develop a local capacity within the region and in each country to plan, conduct and manage an program of continuing judicial education, training and development

Activity

For reasons of sustainability, it is essential that both the regional and national coordinators undergo faculty development or train-the-trainer training. This training will (a) teach them how to deliver training themselves, and (b) equip them to perform the operational aspects of conducting and administering judicial training and, for example, induct and support external trainers or other judges to act as trainers.

For these reasons, faculty development should include training on (a) delivery and (b) administration of judicial education. Some of the essential components of faculty development should include:-

- Needs assessment
- Program planning
- Presentation skills – preparing/presenting conference papers, and facilitating workshops
- Conducting conferences and workshops
- Publishing
- Educational evaluation

Depending on the time available, it is recommended that an inaugural faculty development workshop be conducted on a regional basis for all coordinators and interested education committee members. Depending on the time available, this workshop should ideally be 2-3 days in duration. After the first year, coordinators should, themselves assess the need for additional workshops for new presenters in the region which could be conducted in a 1-day format focusing on presentation skills.

2. Mentor program

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Develop and conduct a mentor scheme to provide “off-the-bench” practical help and support for new judicial appointees.

Activity

Establish a mentor program where experienced and well-respected senior colleagues supervise and support new judges, magistrates and court officers during the first year of their appointment. Similar to bar pupillage or apprenticeship schemes, mentoring – or coaching - provides invaluable on-the-job training, role-modelling, peer support and is a very useful means of providing accessible assistance as and when needed.

Mentors should be selected from the ranks of experienced and respected peers, or retired peers. In small and new jurisdictions where such peers may not be readily available, consideration should be given to seconding the national judicial training coordinator in that country or an adjacent country to exercise this role.

Mentor programs are relatively very cheap to establish and administer. They require the following:

- i. development of guidelines to define roles and responsibilities and to manage expectations in the relationship. It is essential to recognise that the role of mentors of judges and magistrates is to provide advice if/when needed, but **not** to interfere with the judicial independence of new appointee
- ii. selection of a panel of suitably experienced and respected peers willing to serve in a mentoring role
- iii. induction of mentors and new appointees
- iv. ongoing oversight of process and relationships to monitor quality assurance and problems
- v. review and refinement of program after initial year of operation.

3. Regional workshops

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Provide a regular mechanism to continually develop the professional skills and attitudes of all judicial service personnel

Activity

Design and conduct an ongoing program of workshops to develop designated professional skills and attitudes of judges, magistrates and court officers respectively.

The objectives of the workshop program are to support the conference program by developing the practical skills of judicial service personnel to apply their knowledge and skills in order to perform their responsibilities and duties with increasing effectiveness and efficiency. The identity of these skills and attitudes is determined through a methodical assessment of needs.

Most notably, some significant deficits for many judicial officers need to be addressed in the key skills: *legal research, court craft* and *trial management (managing the hearing process), decision-making, reasoning judicially, judgment writing* and *sentencing*.

Additionally, universal deficits exist for all judicial service personnel in *case management* (as distinct from trial management), that is, in the expeditious administration and just disposal of caseload through to the justice system.

Equally, a considerable amount of training is required in developing *computer skills*, contingent to some extent as this must be the delivery and installation of appropriate hardware and software. Training to develop computer skills is required at many levels throughout the judicial services of the region to operate an effective judicial information system. In addition, computer skills are required for judicial officers in electronic legal research, managing more complex litigation and even writing and/or editing judgments. For support staff, even training basic word processing would often be useful.

While the workshop program can address any of these practical needs in any order, it is recommended that in the interests of planning, at least in the initial 3-year phase, the workshop program be integrated to supporting the conference program. This workshop program should fit within and support the overarching regional conference strategy, and provide the means to integrate and apply learning to the local needs in each country. Thus, the principal workshop program should be as follows: applying the principles of case

management (Y1), sentencing skills (Y2), and using computers and judicial information systems (Y3).

Any outstanding capacity to conduct additional workshops in the initial 3-year phase should then focus on *legal research skills*, and *judicial decision-making* (including reasoning judicially and judgment writing)

Because it is expensive in both human and financial resources to develop an inventory of good courseware for these critical skills workshops, it is recommended that these courses should be designed within the region and modified as required to meet local needs and conditions prior to delivering them locally.

4. National Conferences

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Provide a regular mechanism to keep the judiciary informed on recent developments in law and practice, address current technical and professional issues confronting the judiciary, and exchange professional experience.

Activity

Introduce and conduct regular annual conferences for judges, magistrates and court officers.

The purpose of these conferences is to provide an opportunity, a mechanism and a forum to:

- i. Keep abreast of recent developments in law, court procedure and judicial practice
- ii. Explore solutions to technical problems collegially
- iii. Exchange professional experience
- iv. Develop judicial identity and outlook.

Participation

Consideration should be given to structuring participation at these conferences depending on the educational objectives and needs to be addressed. Conferences are generally well suited to consolidating institutional identity. Thus, it might be appropriate to convene a conference for all judicial service officers (judges, magistrates and court officers) themed on an issue of universal significance, such as, *case management*. Alternatively, the theme could more selectively focus on improving understanding of forensic aspects of admissible evidence (such as expert witnesses, documentary evidence, interpreting financial statements or the like), in which case only law trained judges and magistrates might participate. Or, again, the conference could be court-based: only for members of a particular court as, for example, already happens on occasion with the Magistrates Court of Fiji. Finally, the conference could bring together those of similar role from throughout the region, similar to the existing operation of the South Pacific Judicial Conference, but with a more technical focus. This would be useful for smaller jurisdictions and for those wishing to promote a broader exchange of experience. It is recommended that annual conferences be convened to enable participation by all judicial service personnel throughout the region.

It is recommended that an integrated two-layered approach be adopted to regional annual conferencing: first, a practical theme should be selected for the conference be conducted for all judicial service personnel in the region. These themes should be the *principles of case management* (in Year 1), the *principles of sentencing* (Y2), and *judicial information systems*

and computer technology (Y3). Each conference should then be supported by national workshops conducted to apply this learning to local practice within the following twelve month period. Thus, the conferences are designed to focus primarily on transferring information to develop knowledge and understanding of theory, and the workshops are then designed primarily to develop and apply this learning in a practical way to address local needs and conditions.

The duration of these annual conferences should be 2-3 days in order to enable participants to provide opportunities for informal interaction on any matters of interest, as well formal learning on predetermined issues, and to develop and consolidate meaningful professional relationships with colleagues.

These conferences should be designed and structured to address a spectrum of learning needs using a variety of educational models. These may include keynote presentations from local or visiting luminaries, formal lectures with questions, panel discussions and open fora, and small group workshops facilitating active participation. As a general rule, it is recommended that programs be designed to combine and integrate receptive and active learning techniques: thus, a half-day program might consist of a one hour lecture session followed by a panel discussion session and then, perhaps, a problem-solving workshop.

It is recommended that all presenters of sessions be actively encouraged and supported to prepare and pre-deliver papers or materials in copiable form for participants.

5. Regional Orientation Program

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Induct new appointees to judicial office.

Activity

Develop and conduct regular annual 5-day residential orientation course for new judicial appointees throughout the region.

The concept of judicial orientation – or, induction - training is relatively very new to the common law world. Having said that, it is simply a formalised means of assisting to induct judicial appointees with their new duties.

The nature of this training depends directly on the levels of prior professional training and practical experience. Within the common law framework, it is designed to assist new appointees in their metamorphosis, or transition, from advocate to judge. Thus it assumes and builds on the pre-existence of a complex of professional legal competencies to train appointees in the knowledge, skills, attitudes and values specifically relevant to judicial office.

Orientation training should focus on the specific and peculiar competencies required of judicial office which appointees are unlikely to have acquired earlier in their careers as legal practitioners. For example, the evolution from lawyer to judge marks a significant departure from partisanship in advocacy to even-handedness in decision-making.

It should however be stressed that orientation training is *neither* suitable *nor* capable of addressing any underpinning deficits in legal knowledge or training. Profound deficits of legal competence cause through deficient legal training, non-existent or inadequate practical experience and/or defective selection procedures can not be effectively addressed through short-term training intervention strategies. The cures for these problems lie in the coordination of related strategies to strengthen the legal and judicial professions. As has been discussed elsewhere, there is simply *no* satisfactory shortcut to enhancing the competence of lay justices and magistrates which fails to make adequate provision for degree-level legal education.

Orientation training connotes a methodical but essentially short training course for new judicial officers within the first year of their appointment. Generally, it embodies two phases: pre and post appointment.

Pre-appointment

The pre-phase is essentially preparatory. In those cases where the appointive process provides any opportunity for preparatory training, it is usually extremely short. In that time, perhaps over an intervening weekend, there may nonetheless be an opportunity to conduct a 2-day workshop on practical skills to induct appointees on the most basic nuts-and-bolts procedural aspects of their new role. Some examples of practical training exercises could include: convening a court, taking an oath, communicating with clarity, conducting the mechanics of a hearing, controlling counsel, dealing with unrepresented parties, and so on. It is recommended that a 2-day re-appointment induction workshop be developed.

Post-appointment

Induction training provided sometime within the initial twelve months of appointment is often more accessible, recognising the existence of pressures for newly appointed judges and magistrates to commence duties without delay.

Post-appointment induction training aims to develop basic judicial competencies by providing new appointees with an opportunity to reflect on, review, critique and consolidate initial experience, role-model on their more experienced peers, network and collectively solve common problems.

In the Pacific context, particular regard should be directed towards the over-arching common law approach, yet the diversity of domestic laws within which new appointees will operate throughout the region. In order to legitimately enable a useful regional training approach, it is recommended that a 5-day post-appointment residential orientation course be designed to focus on developing the generic skills, attitudes and values of judicial office, rather than on substantive law or local procedure. Assistance in substantive law or local procedure should be provided through other means, for example: legal foundation training, continuing judicial education updates, bench books and digests.

Model program

A possible approach to post-appointment orientation training is to convene an annual 5-day residential course within the region. Ideally, this course would rotate between PINs each year, using and building on the accumulating experience of a faculty of judicial trainers drawn from throughout the region.

The content of this course could include the following major components:-

- Role of the judicial officer
- Judicial conduct and ethics
- Trial management
- Case management and ADR
- Courtroom communication
- Principles of natural justice
- Problems in evidence
- Assessing witnesses
- Equality of the law, gender and cultural diversity
- Dealing with unrepresented litigants

Legal interpreters
Judgment writing
Sentencing
Judicial information systems, library and research facilities.

The format of this course should facilitate active participation as much as possible through the use of short presentations, discussion groups and workshop exercises.

6. National seminars

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Provide a continuing mechanism to keep the judiciary informed on recent developments in law and practice, address current technical and professional issues confronting the judiciary, and exchange professional experience.

Activity

Plan and conduct an ongoing seminar program.

Ad hoc seminars provide the means to meet the need to keep judges, magistrates and court officers up to date with change and recent development which may fall beyond the framework of planned conferences and workshops.

Seminars can play a dynamic role in supplementing the training of planned conferences and workshops. They are invaluable in providing short, highly focused information on matters which cannot be readily predicted and integrated within a structured training program. For example, constitutional reform, legislative change and important decisions of superior courts may impel an immediate need for training which can not wait for the next planned conference, and nor indeed should it displace its contents.

The emphasis of seminars is on the transfer of information – for example, a short paper by a judge or legal academic of a new law or major decision and its immediate implications for participants, or a topical discussion by a visiting appellate judge.

In many countries, the preferred scheduling of seminars is for about ninety-minutes after the close of court. These “twilight seminars” are generally more readily organised at short notice to be accessible and convenient for participants without disrupting the business of the courts. An alternative time which may be better suited for attendees working some distance from the venue, such as provincial or country personnel, is on Saturday morning.

Once again, presenters should be actively encouraged to prepare in advance papers or materials for participants. This however may be more difficult than for conferences, when there is a limited opportunity for preparation.

7. Bench Books

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Produce practical court manuals on common and difficult aspects of law and court practice for use by judges and magistrates on a day-to-day basis, and revise existing services

Activity

Bench books, or judicial practice manuals, assist judicial officers to conduct court proceedings on a day to day basis. Many experienced judges and magistrates develop their own bench book over the course of their careers which become an indispensable practical resource to help them and act as an “aide memoire”.

The purpose, content and nature of bench books varies depending on the specific needs of each court and judicial officer. So, the starting point of any bench book is to ask members of the court what material assistance they need.

Content

The first issue is to decide on the scope and content of the bench book. Generally speaking, bench books focus on the following:

- i. Substance - Highlighting essential requirements in common proceedings required by law, for example, itemising the essential ingredients of criminal offences which must be admitted in evidence, proved by the prosecution or disproved by the defence. In some criminal courts, bench books may include sentencing principles and guidelines. Where the court needs to improve consistency in sentencing, it may also include appropriate tariff ranges based on an analysis of the actual sentencing patterns of the court. In others involving jury trials, it may focus on directions to the jury which spell out the critical elements of complex offences.
- ii. Procedure - Outlining the practice and procedure required in common and/or technically difficult or unusual court proceedings.

Style

Equally important, bench books must be produced in a clear, precise, brief and accessible way which is simple to research and read. Because it is a practice guide, it should selectively contain step-by-step help in conducting proceedings, checklists, precedent orders and the like. It is *not* a text book of legal theory containing learned articles, nor is it an encyclopaedia

burdened by being exhaustive. It should avoid lengthy recitals of the law and refer users to the key statutory provisions, cases or articles where necessary.

Revision

In those courts where bench books already exist, there is an ongoing need to review and evaluation their effectiveness by assessing user satisfaction, and update their contents. Regular revision of bench books , ideally on an annual basis, is essential to prevent them becoming unreliable and even dangerous resources.

8. Bulletin

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Publication of written materials to keep the judiciary informed on recent developments and current issues in justice, law and practice.

Activity

Publish a regular digest on new laws and cases for judicial officers.

At the most fundamental level, it is imperative that judicial officers have ready access to sources of law – statutes and decisions of superior courts - and that they can effectively research and apply statutory and common law. Throughout the region there are glaring gaps in the availability of consolidated statutes and law reports – the fundamental working tools of judicial officers! While it is recognised that this is a substantial undertaking which ideally should be undertaken by others, it is hard to contemplate a more useful resource for judges and magistrates and, thereby, a more fundamental need to be addressed. In effect, it is imperative that the training program can ensure ready access to the law, either through its own endeavour or in coordination with other strategies.

In practice, it is recommended that the most viable and expeditious means to address this fundamental need is for this training program to take some direct responsibility to publish a regular digest on new laws and cases for judicial officers. Experience elsewhere around the world would indicate that it would be extremely valuable to publish a regional judicial digest or bulletin on a quarterly basis on the following:

- a. highlight major legislative changes
- b. significant superior court decisions
- c. short articles on topics of regional judicial interest
- d. notices and reports on judicial events or moves within the region.

9. Extension learning packages

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate Objective

Professional competence of judicial service personnel developed through *short term* training and capacity-building.

Output

Develop, conduct and support the delivery of local continuing judicial training through extension and distance learning packages.

Activity

Principally, through the publication and distribution of written recourses (bench books, digest, conference papers and workshop materials) to judicial service personnel throughout the region. Wherever possible, these should be translated into local languages.

Secondarily, through the development and delivery of medium-term training programs in the form of foundation, diploma and degree-level training in magisterial studies and law, appropriately supported by the full facilities of USPNet, which is discussed elsewhere in this report.

Thirdly, the production of audio and video recourses can, on occasion, be very useful and should be considered. Because of the relatively significant establishment and production costs of these media, it is recommended that they should be selected in cases of extended shelf life, for example, possible as part of an orientation course package. Generally, it is the observation of this writer that these media are seductively attractive, but are often of limited educational effectiveness and rarely cost-effective compared with the use of conventional live-education or written publishing.

Fourthly, through the development of an accessible electronic publishing capability. At the present time, owing to (a) more pressing fundamental priorities and (b) the existing state of development of extension studies programs throughout the region, it is recommended that the development of an electronic publishing capability in the judicial training program, to the extent that it goes beyond (2) above, be a longterm objective of low immediate priority, reviewable in three year's time.

Section 5 - Medium Term Activities

Career-path training

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate objectives

Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

Outputs

Consolidate a legally-trained judicial corps within the region and in each country

Develop an ample reservoir of competent law-trained professionals within the region and in each country from which appropriate judicial appointments can be selected.

Activities

Professionalisation of the lay judicial corps is imperative at this time when, increasingly, fully-trained lawyers are appearing as advocates before courts throughout the region. Specific medium term strategies are required to facilitate and assist incumbent lay judicial officers to undertaking appropriate training to attain this standard. Special emphasis must be given to ensuring that this training is accessible, that it acknowledges and accommodates the accumulated practical experience of incumbents, and is supported by active occupation-based rewards and incentives for progression. These strategies should comprise three incremental steps:

- Step 1 - Foundation ***certificate*** in magisterial studies (c. 4 units)
- Step 2 - ***Diploma*** in magisterial studies (c. 8-12 units)
- Step 3 - ***Degree*** in law and judicial studies (c. 32 units).

This courseware should be designed, with appropriate quality assurance and accreditation provided through USP, to:-

- (a) enable ready access and invite participation by mature-age judicial service employees,
- (b) permit a certified completion at each step, and
- (c) encourage and facilitate graduation with the full degree.

While it is expressly recognised that this component of the training program is significantly more ambitious, substantial and longer term than the preceding shorter term outputs and activities, there is encouraging evidence within the region that it is viable, attainable and realistic.

Most significantly, some years ago, the judiciary of Papua New Guinea commenced a judicial retraining program for the lay magistracy commencing with a diploma of magisterial studies

conducted by UPNG. This diploma was replaced with a law degree program in about 1994. The magistracy is now entering the culminating phase of this program, and it is presently anticipated that all 120 magistrates will qualify with a degree in law in about the year 2002. It is understood that a similarly longer term training approach has been successfully undertaken in the Solomon Islands.

It is recommended that all judicial officers who exercise a European-based jurisdiction, at least in part, should be trained in law to degree-level.

10. Foundation Certificate in Magisterial Studies

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate objectives

Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

Outputs

Develop and conduct a series of some 4 foundation-level units making up a *certificate* in law for lay magistrates and justices.

Activity

Train lay magistrates and justices in foundation units of law.

In order to address the profound deficits of legal knowledge and understanding of many lay magistrates and justices throughout the region, it is imperative that instruction in the fundamental basics of modern law and procedure in a readily accessible form. While this is certainly a substantial undertaking, much valuable work has already been undertaken and can doubtless be refined and utilised, both as components of existing law degree courses at USP and USP, and more specifically as components of earlier magisterial studies programs at these institutions (neither of which are presently being provided). What is most important, is to establish an inviting and accessible pathway to full Professionalisation of the lay judiciary which commences the training process and which encourages candidates to embark on the incremental process of a full legal training.

Modules of this foundation program should include the following key units, each of which can be undertaken on a stand-alone basis and be creditable to the next step in the diploma of magisterial studies:-

- ◆ Legal system
- ◆ Judicial process
- ◆ Criminal law
- ◆ Criminal procedure
- ◆ Civil law
- ◆ Civil procedure

Because incumbent lay magistrates and justices already have practical experience and actual judicial responsibilities, it is recommended that these units are designed to facilitate foundation-level training, but having said that, be assessed at diploma rather than sub-diploma level. In this way, economies of development and incentives of progression are captured. Accordingly, appropriate university accreditation of courseware is required and should be obtained as part of the establishment process.

11. Diploma in Magisterial Studies

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate objectives

Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

Outputs

Develop and conduct a series of some 8-12 units making up a **diploma** in magisterial studies in law for lay magistrates and justices.

Activity

Train lay magistrates and justices in a diploma of law.

Admission in the diploma program can be direct or via the foundation course. This program consolidates students' initial training in the foundation program culminating in their completion of a university-accredited diploma in magisterial studies. The diploma should, in turn, be creditable as a part of qualifying for the degree in law. Additional units for the diploma should include:

- ◆ Customary law
- ◆ Judicial ethics and conduct
- ◆ Principles of natural justice
- ◆ Judicial review
- ◆ Legal persons
- ◆ Commercial law

12. Degree in Law and Judicial Studies

Development objective

Rule of law strengthened through more efficient and effective administration of justice.

Immediate objectives

Professional competence of judicial service personnel developed through *medium term* training and capacity-building.

Outputs

Develop and conduct a series of some 32 units making up a **degree** in law and judicial studies for lay magistrates and justices.

Activity

Educate lay magistrates and justices to qualify in law at degree-level.

The third and final academic step should be completion of an accredited Degree in Law and Judicial Studies. Qualification should be by completion of the normal requirements for a generalist degree in law, or by satisfaction of a streamed combination of subjects, duly accredited by the university, which address the particular requirements of judicial officers.

While it is recognised that the creation of a “judicial studies stream” within the law school curriculum would involve (a) integration of core ("general studies") units in law in Years One and Two, with the development of more specialised courseware in later years. In addition to existing curricula, specialist judicial subjects should include:

- ◆ Judicial decision-making and reasoning
- ◆ Judicial information systems
- ◆ Principles of judicial administration
- ◆ Forensic evidence (advanced)
- ◆ Comparative judicial systems
- ◆ Principles of sentencing

Preliminary informal discussions with senior representatives of USP, IJALS and the Faculty of Law indicate that this proposal is academically feasible, in principle. Clearly, however, considerable work and collaboration will be required to develop a detailed submission for the satisfaction of the South Pacific Judicial Conference, the University of the South Pacific and donors.

Section 6 - Funding

There are two important and inter-related issues: the need for local endorsement and commitment, and financial sustainability.

1. Local endorsement and commitment

Endorsement of the recommendations of the Grimes Report by the chief justices of the region at the South Pacific Judicial Conference last year has been an essential step in developing this training project. However, this endorsement has limited financial impact. The issue of funding is invariably the responsibility of the heads of state, cabinets or ministries of finance throughout the region.

Virtually without exception, national governments have made little financial allocation to judicial training and continuing development. Those exceptions which do exist include the PNG magistrates' retraining program already discussed, and the recent funding of an annual magistrates' conference in Fiji. In other respects, governments provide piecemeal funding for:

- i. limited occupational training in generic courses such as time management or customer service, and
- ii. occasional participation in foreign conferences, almost invariably applied for chief judicial officers and expatriate judges.

Just as it is essential to ensure that judicial training is judge-led and court-owned, so it is similarly crucial to elicit financial commitment from national governments for judicial development. Until this local commitment is made, judicial training will remain donor-driven and ultimately unsustainable.

It is my grim observation of the development field that donors' services which are free are often not highly valued by the recipients. Put more positively, services which must be paid for (albeit at a subsidised price) tend to be more highly valued. This conundrum obviously gives rise to some difficult issues of cost and affordability particularly for smaller and poorer Pacific nations, such as Kiribati, which must be assessed on their respective merits.

More importantly, it means that any funding strategy must comprise three steps:-

- Step 1 - elicit local endorsement and financial commitment to the program
 - Step 2 - establish local capability and launch the initial delivery of training services, and
 - Step 3 - transfer financial responsibility to stakeholders at earliest feasible opportunity.
- *To attain Step 1*, the existing endorsement of chief justices must be adopted by those responsible for national budgeting in each Pacific government participating in this program. Until government understands and recognises the need for judicial training, sustainability will remain a problem. Local appropriation of judicial training must be advocated by chief justices.

The principal arguments to government for judicial training in the Pacific are three-fold:

- i. The judiciary needs to be strengthened in exercising its role as guardian of the principles of good governance, accountability and transparency already endorsed by Heads of Government at the South Pacific Forum;
- ii. Strengthening the rule of law promotes economic development by protecting financial investment and trade.
- iii. The courts protect the citizen from political oppression, commercial exploitation and the abuse of fundamental human rights, such as the prevalence of violence against women.

It is recommended that the chief justices of the South Pacific Judicial Conference lobby:-

- a. ministers of finance to secure this endorsement domestically;
- b. ministers of finance to secure this endorsement regionally at the Forum Economic Ministers Meeting (FEMM), and
- c. foreign ministers to secure this endorsement regionally for the Heads of Government meeting of the South Pacific Forum.

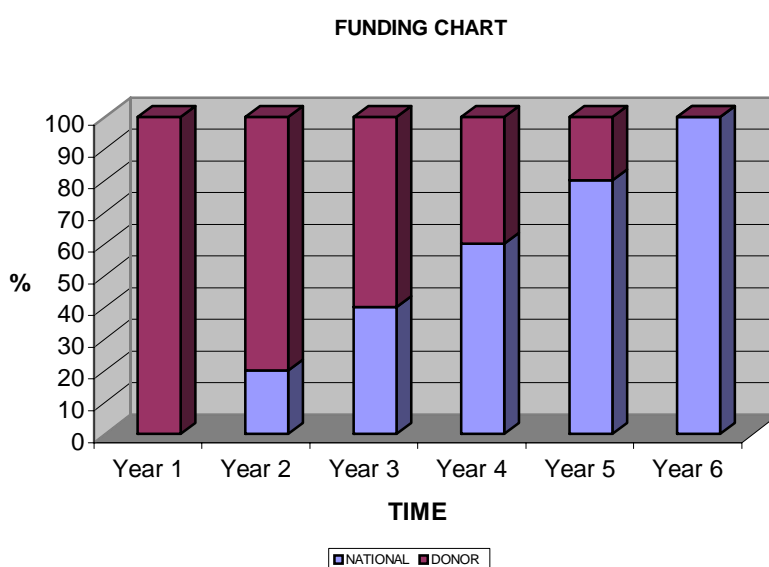
It is recommended that, as an aspirational standard, 1.5% of the law and justice budget be allocated to training in national budgets.

- *To attain Step 2*, Sections 4 and 5 of this report outline the specific outputs and activities which donors must fund to establish local capability and launch the initial delivery of training services.

2. Financial sustainability

- To attain Step 3, a tapering matched-funding scale should be introduced over the commencement phase of the regional training program to transfer financial responsibility to stakeholders at earliest feasible opportunity. This funding scale should initially provide funding by donors and methodically progress to funding by Pacific nation stakeholders in the training program.

This funding scale is represented in the chart outlined below:-



Contributions of donors and Pacific Island nations

Applying the funding chart to the consolidated budget apportions contributions as follows:-

	Y1	Y2	Y3	Y4	Y5	GRAND TOTALS
Donors	420,893	261,597	206,007	144,205	75,708	1,108,410
PINs	0	65,399	137,338	216,307	302,830	721,874
Totals	420,893	326,996	343,345	360,512	378,538	1,830,284

An additional mechanism to allocate the PINs' share to respective nations will need to be developed, ideally at the time endorsement is sought from the South Pacific Forum.

Sustainability - local capacity to sustain training

The need for local financial stake in the delivery of judicial training is an imperative.

It falls beyond the terms of reference for this project to resolve what has been described by the Pacific Community as “*the Pacific-paradox*” - balancing the conundrum of cost, affordability and the longterm sustainability of training for smaller and poorer nations, such as Kiribati.

It is however clear that to sustain training, two concurrent strategies must be introduced:

- c. *internally* - chief judicial officers should take active steps to advocate and lobby heads of government and ministries of finance for local endorsement and financial commitment to judicial training at a national and a regional level through the South Pacific Forum; and,
- d. *externally* - civil society should be empowered to demand enhancements in judicial competence and performance.

3. Endorsement by stakeholders

Local endorsement must be secured from all stakeholders in the continuum of judicial education, training and development. There are three tiers of stakeholder. These are governmental, institutional and individual.

i. Executive government

As has been seen, endorsement in judicial development by the executive arm of government as the sovereign representative of the state, and as dispenser of national funding, is indispensable to secure an independent judiciary. Judicial independence requires not just an absence of interference from the executive arm of government, but also the provision of adequate resources to facilitate its smooth and efficient operation. Most obviously, this requires an adequate and appropriate allocation of domestic budget to facilitate judicial training.

ii. Institutional

The judiciary itself must provide positive leadership in recognising the ongoing need for judicial development. This commitment involves ensuring that an appropriate amount of its financial and human resources are directed towards and applied to judicial training, and that it actively encourages, facilitates and supports judicial and court officers to participate as both trainers and beneficiaries in the process.

iii. Individual

Given the scarcity of resources within the judicial sector, any investment in professional development directed towards strengthening the judicial capability should be consolidated within that institution. Judicial education, training and development are a long term investment. This developmental investment should integrate with broader career-long human resource strategies including recruitment, succession path planning and promotion. Because this investment is both long-term and expensive, it should be secured by a personal commitment of individual beneficiaries, as is normally provided for in scholarship programs.

In the case of continuing professional development – on-the-job training - this should be seen as an incident of employment, requiring active participation. In the case of longer term investments, such as employer subsidised diploma and degree level training, participants should be provided incentives to participate (for example, in the form of security of tenure, development leave and promotion) and disincentives in the form of forfeiture of reimbursement of fees if abandoned or failed, withholding of termination payment and/or bonded indenturing. Experience gained in securing participant endorsement in Papua New Guinea and the Solomon Islands should be noted in this regard.

iv. Scholarships, grants and cost recovery

Consideration will be required to a range of mechanical issues in securing and providing funding. In the process, many questions must be addressed: for example, should the medium term training program be entirely funded by institutional grant, or, at least partly by scholarships to participants? Equally, what strategies of cost-recovery should operate? While

donors have indicated that it is premature to resolve these and related issues at the outset, they are important questions which need to be addressed in due course.

4. Project financing

a. “slice of administrative cake” model

The need to minimise the diversion of funding of infra-structural costs is a legitimate concern of donors, who have consistently advocated a focus on outputs and deliverables in the design of this project.

It has been suggested that this approach could be implemented by allocating a proportion of the costs of non-deliverables, such as the costs of establishment and administration, to the operating costs of deliverable outputs - specific training projects. Thus, if there are three projects endorsed for funding by donors, then the establishment and administration costs should be carved three-ways; if there are ten projects, ten-ways, and so on.

This funding approach could certainly work. It is of course dependent on a consensus within the donor community to share these costs equitably and, equally, a predictably finite number of projects being endorsed for each budgetary period between which to carve those costs.

b. Project financing – an alternative approach

An alternative approach, which would be free of the need for complete donor consensus or the fixing of projects for budgetary periods, would be to see the capacity-building aspect of a secretariat as an indispensable “deliverable” in itself, which could be funded separately and directly. This approach could classify funding under three principal heads of cost: establishment, development and operations.

- *Establishment* - includes the one-off costs of establishing local capability, such as the acquisition of secretariat office and desk-top publishing equipment.
- *Development* - includes the one-off costs of initially developing new courseware, products and services .
- *Operations* - includes the ongoing costs of administering a regional training program, including indirect rent and running costs, which delivers outputs and activities such as the direct costs of conducting conference, workshops and seminars, and publishing bench books and digests.

In this way, one donor(s) could fund the up-front establishment of a secretariat capability, another could fund the up-front development costs of new courses and products, and others could sponsor specific projects or, indeed a combination of these costs.

5. Project inputs and budgets

A global project budget for Y1-3 and Y1-5 of this project is outlined below. Detailed budgets have been prepared by year for the establishment, development and activity phases of this project in this section.

BUDGET FOR YEAR 1 (US\$)

BUDGET	TOTAL
Development	69,443
Establishment	40,026
Activities	311,424
GRAND TOTAL	420,893

Projected Budget for Year 2 (US\$)*

(Activities budget for Y1 + 5% adjustment)

BUDGET	TOTAL
Activities	326,996

Projected Budget for Year 3 (US\$)

(Activities budget for Y2 + 5% adjustment)

BUDGET	TOTAL
Activities	343,345

Projected Budget for Year 4 (US\$)

(Activities budget for Y3 + 5% adjustment)

BUDGET	TOTAL
Activities	360,512

Projected Budget for Year 5 (US\$)

(Activities budget for Y4 + 5% adjustment)

BUDGET	TOTAL
Activities	378,538

GLOBAL BUDGET for 3 year project: US\$1,091,234.

GLOBAL BUDGET for 5 year project: US\$1,830,284.

This represents an investment of US\$1,455 for each member of the judicial service over the term of a three-year project, and US\$2,400 over the term of a five-year project.

Notes on Project Budgets

- All budgets are calculated in United States dollars (US\$).
- Budgets for Year 1 (Y1) are based on recent actual costs, usually in Fijian dollars (F), converted at the presently prevailing rate of exchange of 1.8.
- Budgets for Y1 include *Establishment*, *Development* and *Activities* budgets, separately calculated and attached. Establishment and Development must be funded up-front at the commencement of implementation of this project.
- Activities budgets throughout the duration of this project include full apportionment of all recurrent indirect costs, using the “slice of cake” model. There are no separate “administrative” costs requiring separate funding.
- Activities budgets are precisely quantified and reliable; while it is difficult to predict and quantify every operational cost at the outset, experience indicates that adequate provision has been made for some inevitable “slip-slide” between heads of expense. Although it is anticipated that some economies may be captured, (for example, in salaries of secretariat staff through phased-in recruitment and recruitment of local rather than experienced expatriate specialists; and in distribution costs through coordination of despatch), it would be imprudent to assume these economies from the outset for project budgeting purposes.
- Formulation of activity budgets for Y2 should be undertaken in the light of actual operational experience during Y1. Budgets for Y2-Y5 are projected for activities only, using a compounding adjustment of +5% for inflation. These projections require further adjustment during the course of Y1 for factors such as phase-in and phase-out in the activities program of Y2-5. For example, it is anticipated that faculty development will be conducted in Y1 and 2 only; however, delivery of diploma and degree courses will not commence until Y2 and 3.
- The recommended duration of this project is 5 years, having regard to the depth and volume of training needs to be addressed, the time required to consolidate capacity-building strategies, and the on-set of sustainable strategies for national buy-in as proposed by the five-year tapering funding model between donors and national governments. Alternative project costing has, however, been provided for the lesser period of 3 years.
- Detailed assumptions and notes accompany all budgets.

i. Establishment budget

The one-off costs of establishing secretariat capability for 5 staff, including acquisition of office furniture, telephone, computer and desk-top publishing equipment:-

ESTABLISHMENT BUDGET (YEAR 1)

(US\$ -One-off)

• Office establishment – five desks, cabinets, chairs, telephone system with voice-mail, fax, four integrated computers with office software and email/www facilities (est. F23,650)	13,138
• Desk-top publishing – 1 high capacity computer, large screen, high quality scanner, professional laser printer, office and publishing software (F10-12,000)	6,667
• x1 laptop commuter, pentium with modem, software etc (F5400)	3,000
• x1 digital video-camera, monitor, stand, screen and stock of tapes (F11,000)	6,111
• x1 audio-tape recorder, microphones and editing unit (F10,000)	5,555
• Fit-out – (est. F 10,000)	5,555
TOTAL:	US\$40,026.

ii. *Developmental budget*

The one-off costs of initially developing new courseware, products and services include:-

DEVELOPMENT BUDGET (YEAR 1)

(US\$ - One-off)

Production of:-

• Induction kit for new judicial appointees (x1 audio; x1 handbook) - hiring professional production facilities (est. F5-10,000)	5,555
• Writing c. x6 new law and justice diploma/degree units (@ F5-7,500 x 6: F45,000)	25,000
• Modifying c. x10 existing law certificate/degree units (@ F2,500 x 10: F25,000)	13,889
• Instructional design fees for extension studies (contract-out) (est @ F1,000 x 20: F20,000)	11,111
• Regional bench book model template - hiring short term consulting editor (20-day contract @F650: F13,000) - production costs (x1 edition of 200 copies, @ 200 pages, loose-leaf, spring-bound folders, photocopied or printed - F50: F10,000) - Distribution: despatch and courier (F2000)	7,222 5,555 1,111
TOTAL:	US\$69,443.

Notes

- *Induction audio and handbook* – distance resources are required to assist new appointees operating in remote regions at the time of commencement, that is, prior to participating in orientation training course which may be anytime within first year of appointment.
- *Development of courseware* – all medium term capacity-building strategies rest on the availability of course materials. This requires the development of new, or modification of existing, USP law courses. It is assumed for budgeting purposes that 6 new courses will be required and some 10 existing courses from the LLB program will require modification specifically training judges and magistrates.
- *Instruction design for extension studies* – Provision should be made to facilitate distance learning of the foundation, diploma and degree courses because most serving lay personnel may be unable and unfunded to undertake full-time studies on campus. USP requires 32 units to constitute for a full degree; assuming many of Year One and Two units to be already modified for extension studies, an allowance for modification of some outstanding 20 units has been provided.
- *Regional bench book model template* – In order to provide bench books for the each court in the region – some 50 trial and appellate jurisdictions, only about 6 of which presently have bench books - an initial template model should be produced as the basis for ongoing local development.

iii. *Recurrent professional services budget*

The ongoing indirect costs of administering a regional training program, such as secretariat staff salaries, office rent and running costs, are all recurrent professional service costs. These are all apportioned to specific activity budgets, using the “slice-of-cake model” :-

RECURRENT PROFESSIONAL SERVICES BUDGET

• Salaries of secretariat staff *		
Director	(50-100,000, say)	75,000
Publisher	(40-50,000, say)	45,000
Counterparts (x2)	(25,000 x2, say)	50,000
Clerical officer/Secretary	(7,500, say)	7,500
		177,500
• Rent and USP administrative recovery costs (F30,000)		16,666
• General office recurrent: printing, copying, telephone, stationary, consumables (F30,000)		16,666
• Secretariat regional travel (F20,000)		11,111
• <u>Insurances, miscellaneous equipment, library subscriptions, and on-costs</u>		<u>15,557</u>
(TOTAL:		US\$ 237,500.)

Notes

- *Salaries - Director* calculated on basis of packaged ceiling cost of recruiting an expatriate expert on basis on DFID’s RRRT former regional training director; *Publisher* calculated on basis packaged ceiling cost of recruiting an expatriate expert on the Judicial Commission of New South Wales scale; *Counterparts* calculated on basis of two experienced local appointments in mid-range of USP Senior Lecturers’ scale; *Clerical officer/Secretary* calculated at mid-point of applicable USP support staff scale. Recruitment of counterpart positions could be phased-in to reduce initial costs, but this is not recommended in the light of the activities and outputs scheduled for Y1.

* *Special note* –Significant saving will be attainable through appointment of a local director and publisher. Actual recent experience of UNDP in recruiting this writer as Regional Judicial Training Coordinator, however, indicates that provision for experienced expatriate appointments should be made.

* *Special note* – Negotiation of salaries paid to expatriate staff directly by international donor(s) can attract significant income tax-sheltering benefits in some countries, thereby maximising packaging values to expatriate appointees.

- *Rent and administrative recovery* – while a 1-2 year “rent honey-moon” may be negotiable with USP, this has been provided for; calculated on basis of actual rent paid by the *Bell’s Program* – a comparable regional education project in community literacy with

five staff administered by the USP Institute of Education.

- *General office recurrent*: calculated on basis of actual administrative costs of IJALS not attributable to training products and services. Savings may be made in the event that most indirect operational expenses can be appointed to specific activity budgets, but it is initially prudent to allow a provision in Year 1.
- *Secretariat regional travel* – calculated on the basis of 2 regional circuits in Y1, and includes associated accommodation and subsistence allowances. Special provision for an active and visible regional presence of secretariat staff is essential, particularly at the outset of the project, to induct assist and support national training coordinators and national education committees, in addition to activity-specific travel. Some savings can be generated by coordinating these roles.
- *Insurances and miscellaneous equipment* – this is a general provision which should be revised in the light of experience in Y1.

iv. Activity budgets (Y1 - 1999)

Activity budgets in Y1 are based on the project work plan and calculated on an allocation of recurrent professional services costs, and direct operating costs.

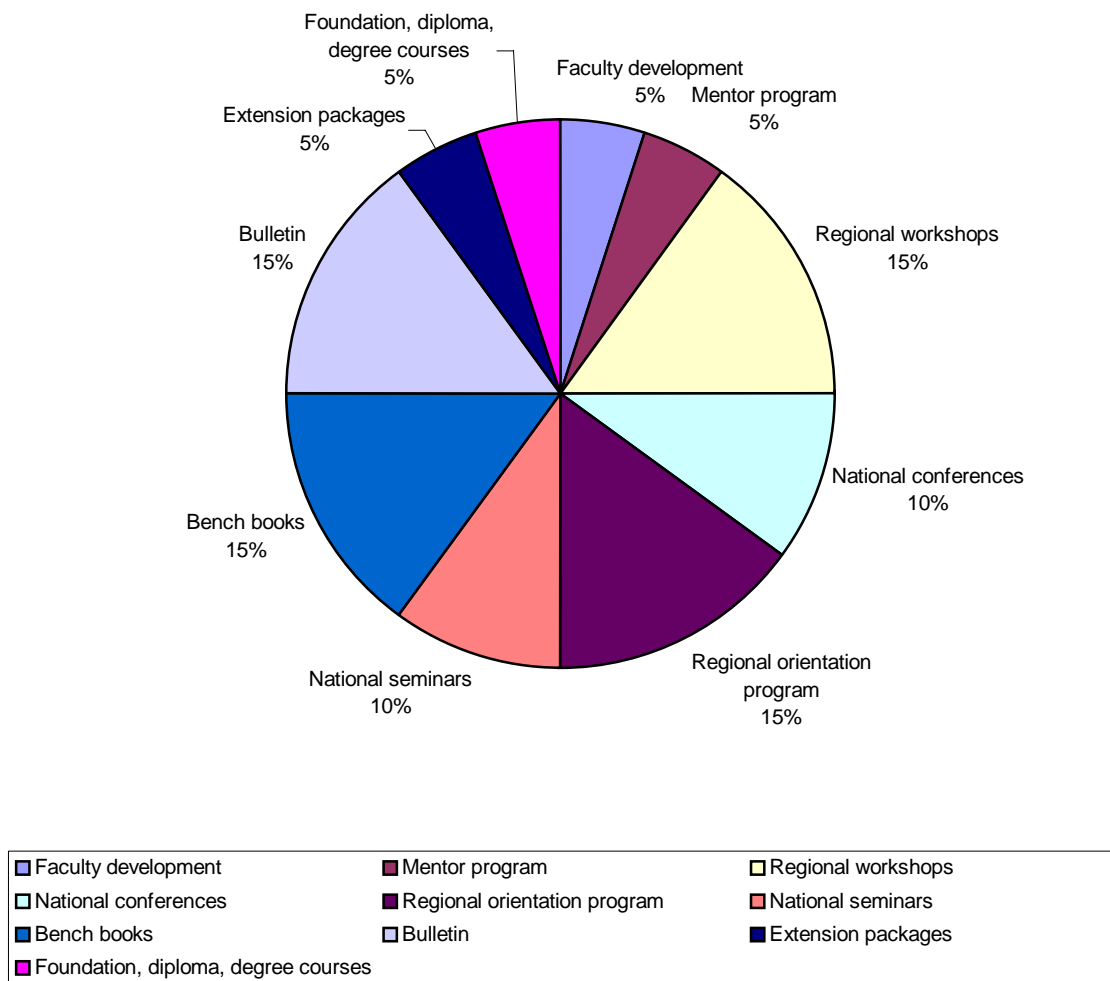
**ALLOCATION OF RECURRENT PROFESSIONAL SERVICES COSTS TO
ACTIVITY BUDGETS**

% O/H	Activities	Y1 1999
1 - 5%	Short-Term <i>Faculty development (occasional)</i>	Design and conduct
2 - 5%	<i>Mentor program (continuing)</i>	Design and implement
3 - 15%	<i>Regional workshop (x1 annually)</i>	Design and conduct
4 - 10%	<i>Annual national conferences (x5-6 annually)</i>	Promote, support and conduct
5 - 15%	<i>Regional orientation program (x1 annually)</i>	Develop, design, market and conduct
6 - 10%	<i>Seminars (x 3-5 annually)</i>	Design and conduct
7 - 15%	Publications <i>Bench books (x1 new annually; x5-6 revised continuously)</i>	Publish, review and revise
8 - 15%	<i>Bulletin (x1 quarterly)</i>	Launch and publish
9 - 5%	<i>Extension packages (x1 annually)</i>	Research and produce
10 - 5%	Medium-Term <i>Foundation units</i>	Research, develop and accredit
11- 0%	<i>Diploma</i>	Research, develop and accredit
12- 0%	<i>Degree</i>	Research, develop and accredit

Project financing and packaging

All professional service costs incurred by the secretariat in developing and providing training products and services are fully apportioned to each activity. There are no residual costs requiring separate funding. Using the "slice of cake" model, these costs are apportioned as follows:-

"Slice of Cake" Chart - % of Professional Services (Y1)



v. *Consolidated Activity Budget (Y1 –1999)*

The following table provides a summary of allocated professional services costs and direct operating costs attributed to each activity in Y1.

CONSOLIDATED ACTIVITY BUDGET (Y1)

	Activities	Allocated professional services costs	Direct operating costs	Totals
1	<i>Faculty development (x1)</i>	11,875	18,063	29,938
2	<i>Mentor program (x1)</i>	11,875	389	12,264
3	<i>Regional orientation (x1)</i>	35,625	29,973	65,598
4	<i>Annual conferences (x5)</i>	23,750	2,778	26,528
5	<i>Regional workshops (x3)</i>	35,625	8,253	43,878
6	<i>National seminars (x5)</i>	23,750	5,275	29,025
7	<i>Bench books (x1+5)</i>	35,625	3,889	39,514
8	<i>Bulletin (x1:4)</i>	35,625	3,332	38,957
9	<i>Extension packages (x1)</i>	11,875	1,972	13,847
10	<i>Foundation units (x6+10)</i>	11,875	Nil	3,959
11	<i>Diploma (see 10)</i>	Nil	Nil	3,958
12	<i>Degree (see 10)</i>	Nil	Nil	3,958
Grand Totals	(x30)	237,500	73,924	311,424

ACTIVITY BUDGETS (Y1)

The operational budgets for each activity in Y1 is outlined below, with detailed assumptions and notes attached.

1. **Faculty development** (Year 1 and Year 2, only)

Assumptions - Design and launch on regional basis in Year 1, 1999; conduct again and consolidate in Year 2; review needs, thereafter. Instruction provided by director, staff and any experienced participants; cadre of x20 participants consisting of national training coordinators (c. x10), plus some additional members of national education committees (c. x10). Program is a 3-day regional residential workshop at Marine Lodge USP in Year 1, and 2-day workshop at Marine Lodge in Year 2. Supported by course handbook/manual.

Direct costs

Materials production and distribution of materials

(25 @ collect on arrival 80-page, bound manual F12: F300) = 166

Accommodation (20 @ F40 + F20 x 3 days: F3600) = 2,000

Hire of USP lecture facilities (F42 x 3: F126) = 70

Fax/phone/mail/stationary (est. F500) = 278

In-transit per diem (8 @ F100) = 444

Travel (20 fly-in participants from throughout region F27190) = 15,105

Total direct 18,063

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1: 5% x \$237,500 = \$11,875; Y2: 5% = \$11,875. \$11,875.

GRAND TOTAL US\$29,938.

Notes

- *Travel* - calculated on actual costs of PILOM workshop conducted at IJALS in September 1998.
- *Per diems* – Provision is made for in-transit per diems for some participants requiring stop-overs to/from Suva, estimated at four each-way. No provision is made for per diems during the activity because full provision is of participants' actual accommodation and subsistence.

**Special note* – A pragmatic and consistent policy should be adopted by donors to the issue of per diems, from the outset. It is anticipated that some participants may “expect” a personal inducement in the form of per diem “pocket money”. This writer objects in principle to subsidising such expectations. However, it is recognised that prevailing expectations may be difficult to re-engineer in the short term and, ultimately, should not be permitted to become a barrier to participation. One solution may be to notify employing courts that they are responsible to provide any per diem in excess of actual accommodation and subsistence provided by the project.

2. **Mentor program** (ongoing, recurrent)

Assumptions - establishment of network of local mentors, being experienced judges magistrates and court officers, for pairing with new appointees and staff; use of national coordinators in selection and briefings; production of handbook/guidelines for mentors and appointees; evaluation and refinement of program after first year.

Direct costs

Materials production and distribution of materials

(50 @ 20-page, bound manual F4: F200) = 111

Fax/phone/mail/stationary (est. F500) = 278

Total direct **389**

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1: 5% x \$237,500 = \$11,875; (Y2 and thereafter: 2.5% = \$5,937.50); \$11,875

GRAND TOTAL **US\$12,264.**

3. Regional orientation program (x1 annually)

Assumptions – Design, develop and pilot in Year 1, 1999; re-conduct annually in Y2 and thereafter, dependent on demand; development of courseware and materials for a 5-day residential regional induction course to be conducted annually at Marine Lodge, USP, Suva. Cadre of between ten to twenty – assume 20 – participants, being new judicial service personnel (query two steams for judges and magistrates, and for court officers?) throughout the region. Instruction in workshop format provided by core faculty of 5 serving judicial service personnel (judges, magistrates and court officers), and 3 external experts, supported by secretariat staff trainers. Supported by course handbook/manual.

Direct costs

Materials production and distribution of materials

(30 @ collect on arrival 200-page, bound manual F18: F540) = 300

Accommodation/catering (28 @ F40 + F20 x 5 days: F8400) = 4667

Hire of USP lecture facilities (F42 x 5: F210) = 117

Fax/phone/mail/stationary (est. F800) = 445

Fees for external presenters (5 @day 1500; est F7500) = 4167

Course dinner (F1000) = 556

Airport transfers (est F200) = 111

In-transit per diem (8 @ F100) = 444

Travel (3 fly-in judicial presenters, experts, from Aust/NZ F3500) = 1,944

Travel (25 fly-in faculty/participants from region F31000) = 17,222

Total direct **29,973.**

Fraction of recurrent professional services costs applied for development/delivery of activity:-

Y1: 15% x \$237,500 = \$35,625; (Y2: 10% = \$23,750) \$35,625.

GRAND TOTAL **US\$65,598.**

Notes

- *Despatch of materials* – no specific allowance made on basis that unreliable, pending experience of reliability of regional mail services.
- *Fees for presenters* – subject to negotiation; provision only made for small number of external experts; faculty of judicial service personnel to provide services gratis, on basis all expenses paid.
- *Travel* - calculated on actual costs of PILOM workshop conducted at IJALS in September 1998.
- *Per diems* – See discussion under “faculty development” on this issue. No provision is made, on basis of full indemnity of participants’ actual accommodation and subsistence.

- *Professional services development costs* – these will initially include significant development/ promotion elements for the pilot course, and thereafter will reduce by about one third.

4. Annual national judicial conferences (x5 annually)

Assumptions - It is anticipated that some 5 national judicial conferences will be regularly conducted with a duration of 2-3 days, possibly residential in style. National training coordinators and judicial education committees will conduct annual judicial conferences in larger countries throughout the region, actively assisted by secretariat staff. In small countries with minuscule judicial institutions, these will be inappropriate and/or unnecessary. Direct operating costs to be incurred by national ministries of justice and/or finance.

Direct costs

(Materials)

(Venue, equipment and catering costs)

(Domestic travel)

(Accommodation)

- *To be incurred by national ministries of justice and/or finance.*

Travel - 1 secretariat trainer to assist/facilitate x5 pilots (est. F5000) = 2778

Total: **2,778**

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: **10% x \$237,500 = \$23,750;** **\$23,750.**

GRAND TOTAL: **US\$26,528.**

Notes

- *Participation* - Each country will need to determine its needs for participation, for example all judicial service personnel, judicial officers only, or a selected group such as magistrates. These variations render accurate financial projections impossible and, in any even, inappropriate for regional funding.
- *Direct costs* - These activities will primarily be a recurrent domestic overhead, and are therefore not costed within this regional training budget. Some countries already financially provide for and conduct these conferences, for example, Papua New Guinea and Fiji. Where these provisions exist, they should be incorporated; where they don't, they should be advocated and promoted by chief justices. National provision is required for materials, venue hire and any domestic travel and accommodation. It is noted that domestic travel, in some countries, is a potentially significant cost.
- *Role of secretariat* - secretariat staff will actively assist and support the introduction and continuation of conferences through advice, supply of courseware (perhaps from the regional workshop program) and faculty coordination.

5. **Regional workshop program** (x3 annually)

Assumptions - Three workshops will be designed, developed and conducted by the secretariat annually, on either a regional or national basis, of 1-day duration for 10-20 participants (assume 10). The purpose of these workshops is to develop judicial skills. Mid-market local venues will be hired, where available, in preference to court premises. Instruction will be provided by 1-2 local judicial faculty, or external expert, supported by secretariat training staff. Supported by workshop handbook or manuals.

Direct costs

Materials production and distribution of materials

(15 @ 20-page, bound manual F4: F60) = 33

Fax/phone/mail/stationary (est. F200) = 111

Venue, facilities and catering (est. F400) = 223

Presentation fees (F1500pd x.5: 750) = 417

Travel – 1 presenter, 1 staff (est. F3000) = 1667

Accommodation – 1 presenter, 1 staff: 2x2 nights (F540) = 300

Total: (2751 x 3) = **8253**

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: **15%** x \$237,500 = \$35,625.

GRAND TOTAL: **US\$43,878.**

Notes

- *Content* - These workshops will focus on the development of specific judicial skills: such as legal research, judgment writing and judicial reasoning, sentencing, and case management. On occasion, these workshop training modules can also be used to integrate into national judicial conferences.
- *Travel* – Provision is made for average travel costs within region from/to Suva for 1 presenter and 1 staff member. Presenter will be drawn from region rather than externally.
- *Accommodation/subsistence* – 4 nights are required for arrival before and departure after day of workshop for the two; presenter and staff @ calculated at per diem rate of F135.
- *Quantity* – it is anticipated that, in practice, these workshop modules will become heavily used within workshop and conference activities within which budgets any associated additional direct costs will be carried.

6. **National seminars** (x5 annually)

Assumptions - It is anticipated that some 5 national seminars will be regularly conducted with varying duration – assume the “twilight” format between 5-7pm which is generally most preferred and accessible. The purpose of these seminars is to provide short, rapid and cheap information updates on important recent developments, for example, on new statutes or cases. National training coordinators and judicial education committees will conduct these seminars throughout the region, actively assisted by secretariat staff. Most direct operating costs to be incurred by national ministries of justice and/or finance; project to provide some material assistance for production of pilot papers/hand-outs.

Direct costs

Materials: production papers/hand-outs (15 @ 15-page, stapled papers F2: F30) = 17		
Fax/phone/mail/stationary (est. F100) = 55		
(Venue, facilities and catering) = local cost		
(Presentation fees) = local cost		
Travel – 1 staff trainer to assist/facilitate pilots (F1500)	= 833	
<u>Accommodation – 1 staff: x2 nights (F270)</u>	<u>= 150</u>	
Total:	(1055 x 5)	=5,275

Fraction of recurrent professional services costs applied for development/delivery of activity -

<u>Y1 and thereafter: 10% x \$237,500 = \$23,750.</u>	<u>23,750</u>
GRAND TOTAL:	US\$29,025.

Notes

- *Participation* - Each country will need to determine its needs for participation, for example all judicial service personnel, judicial officers only, or a selected group such as magistrates. These variations render accurate financial projections impossible and, in any even, inappropriate for regional funding.
- *Direct costs* - These activities will primarily be a recurrent domestic overhead, and are therefore not costed within this regional training budget. Occasional seminars are already conducted nationally. Where financial provisions exist, they should be incorporated; where they don't, they should be advocated and promoted by chief justices.
- *Role of secretariat* - secretariat staff will actively assist and facilitate the introduction of pilot seminars, and thereafter support continuation of seminars through advice, supply of materials, and faculty coordination.
- *Quantity* – it is anticipated that these seminars will become actively conducted throughout the region in due course, and may on occasion be integrated within national conference activities where any associated additional direct costs will be budgeted.

7. **Bench books** (x1 new annually; x5 revised continuously)

Assumptions - commission, write, edit, produce and publish one new bench book annually; and review, update and edit ongoing revisions of 5 existing bench books. Revision standard for each existing service - annually. The initial new bench book should be production of a regional bench book model or template specifically designed for local adaptation by national education committees.

Direct costs

[Desk-top publishing equipment - see “*Establishment Budget*”: high capacity computer, large screen, high quality scanner, professional laser printer, office and publishing software (F10-12,000) =5,000)]

New bench books – x1 edition of c. 50 copies: 200 page, loose-leaf, in high quality spring-bound folders, photocopied or printed (@F50: F2500) = 1389
 Indexing (contract-out) (F500) = 278
Revisions – x5 editions of c. 50 copies: 50 pages, loose-leaf, photocopied or printed (@F10: F500 x 5) = 1389
 Distribution: despatch and courier (F1000) = 555
Fax/phone/mail/miscellaneous stationary (est. F500) = 278
Total: 3,889

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: 15% x \$237,500 = \$35,625. 35,625
GRAND TOTAL: US\$39,514.

Notes

- *Role of secretariat* - In active collaboration with national training coordinators and education committees, staff of the secretariat will undertake and manage this publishing process. Because publishing is a core capability of judicial training, development of in-secretariat and in-country experience and expertise is crucial, and should *not* be contracted-out as a short-term means of saving costs. Indexing is however a specialist skill which can/should be contracted out. The selection and commissioning of new services, and the revisioning of existing national services will be coordinated regionally by the secretariat.
- *Role of coordinators and national education committees* – in practice, production and revision of bench books will consume about half of the energies of coordinators and education committees in settling contents, writing and revising.
- *Writing* - should wherever possible be commissioned within the subscriber population, that is, by senior judges and magistrates for magistrates, under the editorship of the secretariat.
- *Training* - must accompany and support active ongoing use of these bench books in practice: operational costs of conducting this training, and associated travel and other costs are integrated in conference, seminar and workshop activity budgets.

8. **Bulletin** (x1 regional service, published quarterly)

Assumptions - research, write and publish a bulletin quarterly. Purpose of this publication is to provide judicial service personnel throughout region with timely and accessible information on significant changes in law and practice, short articles on topical issues, and notices of professional moves of interest. Secretariat to desk-top produce 4 issues of this service to camera-ready stage in short (say eight page), attractively readable format; commercially printed.

Direct costs

[Desk-top publishing equipment - see “*Establishment Budget*”:
high capacity computer, large screen, high quality scanner, professional laser printer,
office and publishing software (F10-12,000) =5,000)]

Production: 4 issues @ 8 pages, printed in 500 copies (F1000 x4) =2222

Distribution: despatch and courier (F1000) = 555

Fax/phone/mail/miscellaneous stationary (est. F1000) = 555

Total: **3,332**

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: **15%** x \$237,500 = \$35,625. **35,625**

GRAND TOTAL: **US\$38,957.**

Notes

- *Contents* – should include three elements: news of important changes in law and practice; short articles of 1,000 words on topics of interest (for example, judicial independence or ethics, or techniques in case management); and notices of interest within region (new appointments within the region, reports of related training activities, and so on). See “Judicial Officers Bulletin” of Judicial Commission of New South Wales, as a possible model.
- *Roles of secretariat and coordinators* - staff of the secretariat will write and publish service, using network of coordinators as sources of news and contributions. undertake and manage this publishing process.
- *Distribution* – while separate provision has been made for distribution, of this quarterly service to all judicial service personnel throughout the region, potentially significant economies will be captured by the secretariat actively coordinating despatches of other mailings.

9. **Extension packages** (x1 annually)

Assumptions - secretariat to produce and distribute one stand-alone package annually. These may include specially printed materials not otherwise part of the conference program, such as *handbooks for computer training*, or *a series of audio-tapes*, an *induction video*, or *electronic publishing*. The purpose of this package is to support judicial service personnel throughout the region through a variety of media which are specifically designed for distance and remote learning. Although it is difficult to prioritise the specific nature of this service from the outset, it is assumed that the first package might for example constitute a series of computer training handbooks.

Direct costs

Production of materials – 2 handbooks: @ 100 copies, 50 pages, photocopied, bound (@F8: F800 x2 = F1600) = 889
Design of 2 courseware training modules - (contract-out @F750 x2: F1500) = 833
Despatch – (F250) = 139
Fax/phone/mail/miscellaneous stationary (est. F200) = 111
Total: 1,972

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: 5% x \$237,500 = \$11,875. 11,875
GRAND TOTAL: **US\$13,847.**

Notes

- *Role of secretariat* – staff will commission, oversee the production, and coordinate training with these extension packages.
- *Contracting-out* - The use of specialist expertise is inherent to the production of these packages, which will require resort to contracting-out more than in any other element of the training program (for example, in hiring design expertise for a computer-based training module on “electronic legal research”, or hiring broadcast quality video-production facilities). - It should be noted that substantial costs are incurred in video-production which will require special provisions to be made beyond the allowance of this budget, as appropriate.
- *Training* - must accompany and support active ongoing use of these packages. Operational costs associated with conducting this training, and associated travel and other costs are integrated in conference, seminar and workshop activity budgets.

10. Medium term activities (3) - Foundation, Diploma and Degree Courses
(6 new units and 10 revisions)

Assumptions – it is estimated that 6 new courses be developed, plus an additional 10 existing courses from the USP’s law degree program be modified, specifically for training lay judges and magistrates. Many other USP courses will be appropriate as they stand, subject to all requiring modification suitable for extension studies. It is assumed that some 10-20 (15) judicial service personnel will continually participate in this training, once established and operational.

Direct costs

(Development and modification costs: see “*Development Budget*”)

- For Y2 and thereafter:	
(Production – 20 sets of instruction manuals, course books and readers (@F150: F3000)	1,667)
(Distribution – despatch and courier (@F20: F400)	222)
(Tutorial fees – contract out, locally (F300x20: F6000)	<u>3,333)</u>
(Total (not in Y1) -	5,222)

Fraction of recurrent professional services costs applied for development/delivery of activity -

Y1 and thereafter: 5% x \$237,500 = \$11,875.	<u>11,875</u>
GRAND TOTAL:	US\$3,958.

Notes

- *Development and modification of courseware* – for justification, see discussion in “Developmental Budgets.”
- *Recurrent professional services costs* – In Y1, extensive developmental effort will be required in establishing, commissioning and accrediting these courses in Y1. In Y2, these courses will be written, modified, marketed and produced. Delivery will commence in Y3 with substantial run-off periods required for completion of studies, predominantly on a part-time remote basis, estimated at between 5-10 years.
- *Direct operating costs* – It is estimated that these will take effect from Y2 at the earliest but, more likely, in Y3.
- *Quantity of participants* – a conservative estimate has been made for the purpose of initial budgeting, although there is evidence that high levels of interest in training may warrant reviewing this estimate in the light of actual experience.

Section 7 - Project Evaluation and Performance Indicators

This section of the report provides an approach to evaluating this judicial training project, rather than a comprehensive methodology. Project evaluation should be undertaken independently. Having said that, it is important to consider the issues of assessing the effectiveness of this project from the outset, because this may affect project design and the selection of performance indicators.

The purpose of project evaluation and performance indicators is to measure the impact of training activities on attaining the *developmental objective* of this project, being the strengthening of the rule of law in the Pacific region through more efficient and effective administration of justice.

Because numerous factors contribute to the attainment of this objective, it may be more meaningful to focus measurements on attainment of the two *immediate objectives* of this project which support the development objective, which are improvement in the professional competence of judicial service personnel developed through short-term, and, medium-term training and capacity-building.

Attainment of these immediate objectives is in turn measured through the delivery of visible *outputs* from the program of training *activities* provided during the course of this project. These outputs are listed in Section 3.2 of this report and thereafter are discussed in detail in Sections 4 and 5.

- An example with the *bench book* activity is provided to illustrate this approach.

Methodology

No single indicator can comprehensively measure improvements in “the rule of law” with validity and reliability. For this reason, we need to select a range of indicators to measure the impact of the bench book activities. These indicators will measure specific outputs and then “triangulate” an assessment of their outcomes on the rule of law environment. Because qualitative measurements are variable, preference to selection of quantitative indicators will be made where-ever possible.

Designing an evaluation process and selecting performance indicators for the bench book involves making some pragmatic choices. These choices determine the best available mix of what we *need* to measure with what we are *able* to measure. In practice, significant constraints limit the availability of methodologies.

Most significant, it is difficult to measure changes in professional competence relating to the knowledge, skills and attitudes which may be attributable to the bench book. Such measurements are best undertaken using formal assessment techniques such as exams and tests, longitudinal observation and studies of performance over periods of years, and control-group testing. These techniques are, however, not feasible in this project. For one reason, the doctrine of judicial independence militates against formal external assessment of the performance of judges other than through analysis of appeal outcomes. Other constraints include a lack of established consensus on indicators of judicial best-practice of what makes “a good judge.” Moreover, assessments of public satisfaction with judicial services are

unavoidably qualitative and anecdotal. Causality may also be difficult to establish in an environment where many inputs potentially contribute to change. Added to this, pressures of time and cost limit the selection of indicators which can be used for evaluation purposes during the span of this project.

- Given these constraints, what indicators can measure the contribution of the bench book to enhancing the rule of law in the Pacific with validity, reliability and utility?

It is recommended that a two-tiered building-block approach to performance indicators be adopted to assess the project in terms of its process and its impacts.

a) “**Process Indicators**” – These measure the implementation of the Pacific Judicial Training Project in terms of its efficiency and effort. These indicators are “internal” to the project and evaluate whether it is doing what it set out to do. Typically, these indicators should include the following:-

The lead indicator relates to central project activity and efficiency, and is *publication of the Pacific regional judicial bench book on schedule and within budget*.

While an integral criterion for success of this project relates to judicial learning and competence, any direct assessment of improvements in the levels of knowledge, understanding, skills and attitudes of individual judges is highly problematical, as has been discussed.

For this reason, it is more appropriate to select secondary indicators relating to judges’ reaction to the bench book and training. Thus, secondary indicators include *participation of national coordinators and education committee members* in faculty development training, and, *participation of all judges and magistrates* in training on the use of the bench book. Both these indicators are objective, visible, quantitative measures of project effort and efficiency.

While it may be difficult to directly measure increased competence, it is useful to measure (a) *satisfaction of judges and magistrates* in terms of whether they perceived that the bench book added to their knowledge, understanding, skills and attitudes, and (b) any existence of *intentions of judges and magistrates* to make improvements in judicial service delivery as a result. While these indicators are inferential in measuring qualitative perceptions of project value, they do enable ongoing refinement and fine-tuning of project effort (formative evaluation). More importantly, they provide the means to measure the will to improve systemic performance which is essential to improving the rule of law environment (summative evaluation).

b) “**Impact Indicators**” – These measure the effectiveness of project outputs in terms of their results or outcomes. They are “external” to the project, and describe objectively visible measurables and how they contribute to enhancing the rule of law environment.

Ultimately, the lead impact indicator is the *confidence of civil society* in the integrity of the justice process. It is not, however, easy to select any single indicator of measurement. Interviews and surveys of representatives of civil society (however defined as citizen’s representatives, human rights or women’s groups and, for that matter, practising advocates and prosecutors) should be undertaken to assess satisfaction with judicial

services, using criteria relating to accessibility, openness, efficiency, transparency, clarity and integrity. While data may be qualitative and anecdotal, assessments using standardised instruments to plot aggregated responses in *pre/post* or *internal/external* perceptions can describe differences and changes attributable to this project.

A more visible and objective indicator of project impact is *judicial performance*. Key criteria for judicial performance relate to changes in the nature and incidence of judicial caseload and service-delivery. This judicial management information should be regularly collected and available from ministries of justice throughout the region. Indicators include the number of new cases issuing each year, the number of disposals, the average duration of time pending disposal, the number of appeals and the percentage of successful appeals, the number and nature of complaints against the judiciary and their outcomes. This data is fundamental to any framework of indicators, although it may remain inferential to the extent that identified changes may be attributable to a variety of possible causes including the bench book.

– Some thought will, however, have to be given to whether rising or falling rates of appeal are an indicator of improvement, bearing in mind that active resort to review may be as much a symptom of public confidence in the integrity judicial system, as a whole, as it may be of perceived incompetence of one decision, in particular.

Another intermediate indicator of impact relates to the incidence of *use of the bench book by judges and magistrates* on a regular and ongoing basis. Self-assessment surveys and/or observation of court behaviour can collect this information.

So, in summary, the range of performance indicators of available for assessment of this project include the following:-

1. Publication of the bench book(s)
2. Participation of trainers in faculty development
3. Participation of judges and magistrates in bench book training
4. Satisfaction of judges and magistrates with the perceived usefulness of the bench book
5. Intentions of judges and magistrates to improve the quality of judicial service delivery
6. Use of the bench book by judges and magistrates
7. Confidence of civil society in improvements to the rule of law
8. Improvements in judicial servicing of caseload
9. Reduction in successful appeals against decisions
10. Reduction in complaints upheld against judicial service personnel

Techniques

A number of techniques can be used to collect data using these indicators for purposes of evaluating the project. These techniques include: -

- Comparative surveys – self, peer and external assessment
- Interviews of key stakeholders and representatives of civil society
- Observation and expert appraisal
- Base-line judicial management data from ministries of justice.

In view of the time, resources and costs associated with undertaking an effective evaluation of this project, detailed consideration should be given by UNDP to selecting a framework of indicators to evaluate this project.

It is recommended that a combination of performance indicators should be selected to measure the project's contribution to enhancing the rule of law in the Pacific region which include process and impact evaluation techniques, subjective and objective criteria, and quantitative and qualitative data.

Section 8 - Methodology

The principal methodologies used for this project have included consultations and interviewing, surveys of remote stakeholders, observation of courts' operations, analysis of public and judicial sector data, and selective review of the published literature of judicial and professional training.

i. Consultations and interviews

The major methodology of this project has consisted on extensive consultations and interviews of stakeholders of the justice system throughout the region.

I have undertaken briefings with judicial members of the education committee of the South Pacific Judicial Conference and other stakeholders in the justice system in Papua New Guinea, Fiji, Samoa, New Caledonia, Kiribati and Vanuatu.

These consultations have included almost one hundred interviews of the following office-holders in country: chief justice, chief magistrate, other interested judicial officers, attorney-general, secretary for justice, DPP, public solicitor/defender, chief registrar, ombudsman and law reform commissioner (where appointed). I have also consulted with available NGO's and representatives of civil society wherever available.

I have provided two working drafts of this reports, together with three verbal reports to UNDP and bilateral donors including AusAID, DFID and NZODA in Suva, and a representative of ADB representative in Manila.

ii. Survey

In addition to these consultations, the chief justices of countries not visited within the region, have completed and returned a survey, a copy of which is annexed to this report.

iii. Observations

Within the time available, observations were conducted of the operation of trials and administrative proceedings in magistrates courts and superior courts of first instance and appellate jurisdictions in Fiji, Vanuatu, Papua New Guinea, Samoa, Kiribati and New Caledonia.

iv. Analysis of data

In the course of consultations and research, extensive information on governance, the administration of justice and training within the region has been collated and assessed.

v. Review of the literature

I have also undertaken a review of the academic and professional literature of judicial training and continuing professional development to the extent that it is relevant to this project.

Section 9 - Schedules

Schedule A – Consultations

Status

Interviewee

DONORS

Romulo Garcia, UNDP
Clay Wescott, UNDP
Patricia Sachs, UNDP
Leonard Chan, DFIDP
Isabel Calvert, NZODA
John Davidson, AusAID
Ross Clendon, ADB

SPJC EDUCATION COMMITTEE

Chief Justice Sir Arnold Amet, PNG
Chief Justice Fatetatu Sapolu, Samoa
Chief Justice Richard Lussick, Kiribati
M. Jean Louis Pagnon, New Caledonia
Justice Bryan Beaumont, Australia
Professor Mark Findlay, Australia

FIJI

Judicial-Academic-Professional-Civil Society

Chief Justice, Sir Timoci Tui Vaga
Sir Moti Tikaram, Pres. C of Appeal
Ratu Joni Madraiwiwi, Fiji High Court
Justice Michael Scott, Fiji High Court
Justice Daniel Fatiaki, Fiji High Court
Justice Dennis Pain, Fiji High Court
Justice Kepa, Ombudsman
Chief Magistrate Sailesi Temo
Magistrate Waqazono
Alipate Qetaki, Secretary, Min Justice
Nazhat Shameen, DPP
Kenneth Wilkinson, Deputy DPP
Florence Fenton, Law Reform Commr
Moti Rai, Chief Registrar, High Court
Mrs Sharma, Dep-Registrar, Fiji HC
N Prasad, Dir Corp Services, Jud Dept
Naniendra Nand, Solicitor General
Kenneth Wilkinson, Deputy DPP
Kim Stanford-Smith, RRRT
Imrana Jalil, RRRT
Vana Dulaki, RRRT
Andie Tong Foy, Forum Secretariat
Gina HOUNG Lee, Women's Rights Mvt
Prof Rajesh Chandra, Dep-V.C, USP
Prof Mere Pulea, Director, IJALS, USP
Prof Bob Hughes, Dean of Law, USP
Prof Crosbie Walsh, Dev Studies, USP
Dr Howard van Trieese, USP Extension
Kisione Finau, USP, ITS
John Yee Chief, Deputy Bursar, USP
Dr Jimi Samisomi, Dean, Fiji School
Medicine
Charles Katoanga, Fiji School Medicine
Donald Duncan, JOBS

PAPUA NEW GUINEA

Chief Justice Sir Arnold Amet (*SPJC*)
Justice Sir Mari Kapi, DCJ
Justice Los, Supreme Court of PNG
Justice Woods, Supreme Court of PNG
Justice Kirriwom, Supreme Court PNG
Chief Magistrate Pit-Pit
Senior Magistrate Seri Seneka
Magistrate Steven Oli, Training Co-ord
Lawrence Newell, Chief Registrar
Lohia Rako, Dep-Registrar, Sup Court
Ian Augerea, Dep-Registrar, Mag Courts
Ellenas Batari, Public Solicitor, PNG
Paniel Mogish, Public Prosecutor, PNG
Bob Mellor, Sect, Law Society PNG
Susan Balen, ICRAF, (NGO)
Dickson Kombagle, Legal Training Inst
Dean Jerry Linge, Law School, UPNG

VANUATU

Chief Justice Lunabeck (survey letter)
Hamlison Bulu, Attorney General
Justice Reggett Marrum, Sup Court
Magistrate Steve Bani
Magistrate Nesbeth Wilson
Magistrate Terry Boe
Magistrate Steven Felix
Hamlison Bulu, Attorney General
Rita Navita, Chief Registrar
Kayleen Taroa, Public Prosecutor
Peter Taurakoto, Judicial Servs Comm
Susan Bothman Barlow, Pres, Law Soc
Ted Hill, Lecturer in Law, USP
Jenny Care, Lecturer in Law, USP
Tess Newton, Lecturer in Law, USP
Robert Hardy-Pickering, Judicial Trainer

SAMOA

Chief Justice Sapolu (*SPJC*)
Faaitamai Meredith, Secretary of Justice
Brenda Heather, Attorney General
Maiava Toma, Ombudsman
Vaigola Maua, Public Service Comm
Graham Powell, Parliamentary Counsel
Clark Peteru, lawyer
Court Clerk, Supreme Court, Apia
Jerry Brunt, Sec, Law Society
Faisea Lei-Sam, MOA (Women's NGO)
Sua Viliama, Nat Union of Workers
Makarita Vaai, Director, USP Centre
Chris Wheeler, AusAID, Samoa
Paul O'Callaghan, Aust High Commr

KIRIBATI

Chief Justice Richard Lussick (*SPJC*)
Perma Sam, Acting-Chief Registrar
Michael Takabwebwe, Attorney General
Titabu Tabane, DPP
Tiantaake Beero, Sen State Adv (Civil)
Pole Tebao, Sen State Adv (Crim)
Katarake Tebweao, former Magistrate
David Lambourne, People's Lawyer

NOUMEA-NEW CALEDONIA

Jean Louis Pagnon, Dep AG (*SPJC*)
Lourdes Pangelinan, Dep Dir-Gen, Pacific
Community (SPC)
Jean Pierre Galthier, Fr Rep, SPC
Dr Paul de Deckker, President,
Universite Francais Pacifique (UFP)

SOLOMON ISLANDS

Sir John Muria, Chief Justice (Survey)

COOK ISLANDS

Sir Peter Quilliam, Chief Justice (Survey)

NIUE

Chief Justice Dillon (Survey)
T L Sioneholo, Secretary of Justice

MARSHALL ISLANDS

Chief Justice Dan Cadra, (Survey)

TUVALU and NAURU

Chief Justice Sir Gavan Donne (Survey)
Afele Kitiona LLB, Registrar, Tuvalu

TONGA

Acting Chief Justice DD Finnigan (Survey)

OTHER

Professor Richard Grimes

Schedule B – Survey instrument

Wednesday, 23 September 1998

Dear Chief Justice,

SOUTH PACIFIC REGIONAL JUDICIAL TRAINING PROJECT

The purpose of this letter is to invite you to assist in the development of a judicial training program for the South Pacific region.

As you may know, in July 1998, I was appointed by UNDP as Regional Judicial Training Consultant to undertake this project, based at the Institute of Judicial & Legal Studies, USP, Suva.

This project builds on the training needs feasibility study for the Chief Justices of the South Pacific undertaken by Professor Richard Grimes, which was endorsed by the South Pacific Judges' Conference in Sydney last year. As a result, the conference established an education committee chaired by Chief Justice Sir Arnold Amet, and includes Chief Justice Sapolu, Chief Justice Lussick, Justice Beaumont, M Jean-Louis Pagnon and Professor Mark Findlay.

The purpose of this project is to develop a training plan for judges, magistrates and courts administrators throughout the South Pacific region. This plan will identify and design priority training projects for funding by donor agencies, appoint national training coordinators in each country, and develop a communication network for these training coordinators. The report is due at the end of October.

In the time available, it has been agreed that I visit Papua New Guinea, Fiji, Samoa, Kiribati, New Caledonia and Vanuatu where I have consulted as widely as possible. In each country, these consultations have included the chief justice, chief magistrate, other judicial officers, attorney-general, secretary for justice, DPP, public solicitor/defender, chief registrar, ombudsman and law reform commissioner, where appointed and available. I have also consulted with representatives the legal profession and civil society.

For this training to be useful, I would greatly appreciate any direction and assistance which you can provide. Specifically, I would be grateful if you could arrange for the completion and return of the attached questionnaire to this office (fax: 679 314274) by **Friday, 2 October**.

Yours sincerely,

Livingston Armytage
Regional Judicial Training Consultant

Pacific Regional Judicial Training Project

Confidential

SURVEY OF CHIEF JUSTICES

The purpose of this project is to develop a training plan for judges, magistrates and court clerks/administrators throughout the South Pacific region. To ensure this training is useful, please answer the following questions.

1. Describe what training would be most useful for *court clerks* in your country:
...
...
2. Describe what training would be most useful for *magistrates* in your country (specify if lay, or law-trained):
...
...
3. Describe what training would be most useful for *judges* in your country:
...
...
4. Do you have a bench book or practice manual? (circle one, only): Yes or No
5. If “yes” to (4) above, describe how useful it is (circle one, only):

Very useful – sometimes useful – not useful

And, supply reasons:

...

6. Nominate an experienced judge, magistrate or clerk to act as your national training coordinator (This is an honorary role of about 3-5 hours each month; it requires someone who commands respect of their peers and is interested in professional development):-

Name:

Position:

Address:

Ph.:

Fax:

Email:

7. In your country, there are how many:-

court clerks/administrators:

magistrates (specify lay, and law-trained):

judges:

8. Your name: ...

Country: ...

Thank you for your assistance – Please fax to 679 314274 before Friday 2 September 1998.

Schedule C – Preliminary reports

i. Interim Report # 1

REGIONAL JUDICIAL TRAINING PROJECT

Donor Meeting: 28 August 1998, Suva

AGENDA

1. **Project design** – goals and expectations
2. **Consultation phase** – progress to date
3. **Needs assessment** – judges, magistrates, court officers
4. **Judicial training “centre”** – regional approach
5. **Capacity building** - structures
6. **Project outputs** - products and services
 - bench books/manuals
 - in-country training
 - skills workshops
 - list-serve
 - orientation/induction
 - faculty development
 - national coordinators
 - regional conferences

7. **Reporting**

Livingston Armytage
IJALS – 212246.

ii. Interim Report # 2

PACIFIC REGIONAL JUDICIAL TRAINING PROJECT

I completed mission # 2 of this project between 17 August and 11 September. During this mission, I undertook briefings with judicial members of the education committee of the South Pacific Judicial Conference and other stakeholders in the justice system in Papua New Guinea, Fiji, Samoa, New Caledonia, Kiribati and Vanuatu.

These consultations have included almost one hundred interviews of the following office-holders in country: the chief justice, chief magistrate, other interested judicial officers, attorney-general, secretary for justice, DPP, public solicitor/defender, chief registrar, ombudsman and law reform commissioner (where appointed). I have also consulted with available NGO's and representatives of civil society wherever available.

In addition, I have provided verbal reports to UNDP and bilateral donors including AusAID, DFID and NZODA in Suva, and efforts to establish contact with the ADB representative in Manila continue.

These consultations have been extremely useful and informative in defining the needs for judicial training. While unavoidably selective and truncated in the time available, these consultations have provided valuable insights on the priorities for judicial training throughout the region.

I must observe that this is an extremely ambitious and challenging project, for two reasons: First, the needs for judicial training are quite profound and very widespread. Second, to be effective, this project must successfully traverse extraordinary diversity and distances within the Pacific region.

Taking into account the common needs for education and training throughout the region, I anticipate developing a business plan and making detailed recommendations for training projects broadly as follows:

a Operating structure

Formation of a judicial education capability based at IJALS in Suva to operate as a secretariat, rather than a "centre", in developing and supporting the delivery of local training programs via national coordinators appointed in each country throughout the region. This secretariat will advise and report to the education committee of the South Pacific Judicial Conference (SPJC) and implement its coordinating policies. National coordinators will chair a judicial education committee comprising representatives of judges, magistrates and court administrators, report to the chief justice in each country, and manage the delivery of in-country training.

b Some operating principles

1. There is a doctrinal imperative for judicial education to be judge-led and court-owned, if it is to be successful in strengthening an independent and professional judicial system.

2. While it is educationally most effective that training should be designed and delivered to meet specific local needs wherever economically feasible, some training however should be conducted on a regional basis to provide opportunities for networking and the exchange of experience.
3. There is an overarching need to build regional capacity and commitment to deliver judicial training, rather than to create a system which is either donor driven or dependent on external expertise.
4. In view of the scarcity of available resources, all reasonable efforts should be made to rationalise the use of existing resources within the region whenever they are available.

c Training services and activities

Implementation of any program of judicial training services is likely to include the following components:

- a) Appointment of regional and national coordinators
- b) Formation of national education committees to support each coordinator which will represent judges magistrates and administrators, and will report both to the education committee of the South Pacific Judicial Conference and to the chief justice in each country
- c) Establishment of a secretariat capability at IJALS
- d) Provision of faculty development (train-the-trainer) training for all coordinators and committee members
- e) Completion of national needs assessments by coordinators and committees
- f) Introduction of new magistrate orientation training on a regional basis
- g) Publication of bench books or practice manuals, where none exist
- h) Introduction of regular judicial conferences, seminars and/or workshops both in each country to focus on technical updates and refreshers, and regionally to address technical issues or problems of shared interest
- i) Consolidation of a judicial cadre by sponsoring pathway for professional development comprising three medium-term increments: base-level (lay) magisterial diploma, law degree, and indenturing for professional experience

I will return to Suva on 21 September to complete mission # 3, the final mission of this project, and submit my report by the end of October. Before doing so, I would greatly appreciate your comments on the ideas being developed in this interim report.

Yours sincerely,

Livingston Armytage
16 September 1998
C/- IJALS, Suva
Fax: 679314274
<armytage_l@usp.ac.fj>

Schedule C – Regional and National Coordinators

i. Director and Regional Coordinator

The director of the JTS should exercise the responsibilities of Regional Training Coordinator.

ii. National Coordinators

- **Fiji** – Justice Denis Pain, National Court of Fiji, Suva
Fiji Judicial Education Committee - Justice Denis Pain Justice (chair), Daniel Fatiaki, Justice Michael Scott, Chief Magistrate Selesi Tomo and Mr Narendra Pradesh, Director of Court Services;
- **Vanuatu** – Magistrate Steve Bani, Court House, Port Vila
Vanuatu Judicial Education Committee - Acting Chief Justice Lunabek (chair), Mr Justice Regget Marum, Magistrate Steve Bani, and Rita Naviti Chief Registrar.
- **PNG** – To be advised;
- **New Caledonia** – Jean-Louis Pagnon;
- **Samoa** – To be advised;
- **Kiribati** – c/- Chief Justice Richard Lussick, High Court, PO Box 501, Betio, Tarawa, Republic of Kiribati; Ph 686 26451; Fax 686 24149;
- **Marshall Islands** – Chief Justice Dan Cadra, High Court, PO Box 378, Majuro, MH (ph 692 625 3201), fax 692 625 3323 JudRep@NTAMar.Com ;
- **Niue** – Mr Sioneholo LLB, Registrar, High Court of Niue, c/- fax: 683 4128 or 683 4231;
- **Solomon Islands** – Denzil Seneviratne, Chief Magistrate, Central Magistrates Court, Honiara (ph: 677 21354; fax: 677 22702);
- **Cook Islands** – To be advised;
- **Nauru** – To be advised;
- **Tuvalu** – To be advised;
- **Tokelau** (administered by Samoa; no USP centre office) – To be advised;
- **Wallis & Futuna** (administered by French; no USP centre office) – To be advised;
- **Tonga** – Acting Chief Justice DD Finnigan, Supreme Court, PO Box 11, Nuku'alofa, Tonga; Ph/fax: 676 24771.

Section 10 - Bibliography and Sources

ABA, *Legal Education and Professional Development – an Educational Continuum*, Report of the Taskforce on Law Schools and the Profession: Narrowing the Gap, Chicago, 1992 (“MacCrate” Report)

ABA Code of Judicial Conduct, Canon 3, reprinted in *Judicature*, 1985, 69, 77-81.
Armytage L, *Educating Judges: Towards a Model of Continuing Judicial Learning*, Kluwer Law, The Hague, 1995

Armytage L, "Judicial Education on Equality - with particular reference to gender and ethnicity," *The Modern Law Review*, 1995, 58, 160-186.

Armytage L, "Evaluating the Impact of Judicial Education," *Journal of Judicial Administration*, 1994, 4, 35-63.

Armytage L, Performance Indicators - Evaluating Judicial Education, *International Bar Association (IBA) Judges' Forum Newsletter* 6,1, Sept 98

Armytage L, Judging: an Occupation and Skills Analysis - Implications for Educators, *NASJE News*, 11, 3, Fall 96

Armytage L, "Judicial Orientation: 6 Factors Influencing Educational Program Development," International Bar Association (IBA), Melbourne, October 1994.

Beattie Sir David, *Commission of Inquiry on the Courts*, (“Beattie Report”), Suva, 1994.

Beaumont BA, “Twelfth South Pacific Judicial Conference”, 71 *Australian Law Journal* 656, September 1997.

Bridge Report: the Working Party on Judicial Studies and Information, chaired by Lord Justice Bridge, 1978, (known as the Bridge Report), cited in Judicial Studies Board, Report for 1983-1987, London: HMSO, 1988.

Brookfield SD, *Understanding and Facilitating Adult Learning*, San Francisco: Jossey-Bass, 1986

Cartwright S (Dame Silvia), "Judicial Studies in New Zealand's District Courts", *Journal of Judicial Administration*, 1993, 2, 162-170.

Catlin DW, "An Empirical Study of Judges' Reasons for Participation in Continuing Professional Education," *The Justice System Journal*, 1982, 7, 2, 236-256.

Cervero RM, *Effective Continuing Education for Professionals*, San Francisco: Jossey-Bass, 1988.

Chand G and Nath N, *Smallness, Backwardness and Public Accountability – Public sector audit in Fiji and Western Samoa*, as yet unpublished paper, 1998.

Cross KP, *Adults as Learners*, San Francisco: Jossey-Bass, 1981.

Findlay M, "Corruption in Small States: Case Studies in Compromise," *Journal of Financial Crime*, 5 (1), 30.

Ford A, "Magistrates' Training in Kiribati," *South Pacific Law Bulletin*, 2: 1, Suva: USP, March 1997

Gold N, Taking Skills Seriously: a Research Perspective, *Journal of Professional Legal Education*, 1987, 5, 64-71.

Grimes R, *Report on the findings of the judicial training needs feasibility study for the Chief Justices of the South West Pacific*, ("Grimes Report") Suva: USP, 1997.

Hardy-Pickering R, "Magistrates' Training Programme, Vanuatu," *South Pacific Law Bulletin*, 2: 1, Suva: USP, March 1997

Hicking RH and Bayliss AL, *Report on the Application of the Magistrates' Courts Rules to Civil Cases*, Suva, 1998.

Houle CO, *Continuing Learning in the Professions*, San Francisco: Jossey-Bass, 1980.
Hudzik JK, *Issues & Trends in Judicial Education*, Lansing, Michigan: Michigan State University; Judicial Education Reference, Information and Technical Transfer Project (JERITT), 1993.

Institute of Justice and Applied Legal Studies, *Annual Report 1997*, Suva: USP, 1998.

Institute of Justice and Applied Legal Studies, *South Pacific Law Bulletins*, 2: 1-3, Suva: USP, 1997

Introductory brochure, *South Pacific Forum Secretariat*, Suva, November 1997.

Judicial Studies Board, *Report for 1987-1991*, London: Her Majesty's Stationery Office, 1992.

Kolb DA, *Experiential Learning: Experience as the Source of Learning and Development*, New York: Prentice Hall, 1984.

Li PM, "Keeping Judges Awake to Contemporary Needs," *The Judges' Journal*, 1976, 15, 78-103.

Ministry of Foreign Affairs & Trade (NZ), *Information Bulletin 56, South Pacific Forum - Regional Cooperation at Work*, Wellington, January 1996.

National Association of States Judicial Educators, *NASJE Principles & Standards of Continuing Judicial Education*, NASJE, 1991.

National Judicial College, *Annual Reports*, Reno.

National Judicial Institute (formerly, Canadian Judicial Centre), *Annual Reports*, Ottawa.

Ormrod Report: *Report of the Committee on Legal Education*, London: Her Majesty's Stationery Office, 1971.

Pacific Islands Commission – Corporate Plan 1996-1999, Noumea: South Pacific Commission, 1997.

Pearce E, Campbell E and Harding D, *Australian Law Schools: a Discipline Assessment for the Commonwealth Tertiary Education Commission ("Pearce Report")* : 1987, Canberra: Australian Government Printer.

Powles G and Pulea M, *Pacific Courts and Legal Systems*, USP, 1988

Powles G, "Laws, Courts and Legal Service in Pacific Societies," in Powles and Pulea, 1988, 6.

Powles G, *Customary Law in the Pacific: Dimensions and Issues*, 12th South Pacific Judicial Conference, unpublished, Sydney, 1997.

Sallmann PA, "Comparative Judicial Education in a Nutshell: A cursory Exposition", *Journal of Judicial Administration*, 1993, 2, 245-255.

Schon DA, *The Reflective Practitioner*, New York: Basic Books, 1983; and *Educating the Reflective Practitioner*, San Francisco: Jossey-Bass, 1987.

South Pacific Commission – History, aims and activities, (13th edition) Noumea: South Pacific Commission, 1996.

South Pacific Commission Annual Report 1996, Noumea: South Pacific Commission, 1997.

South Pacific Forum Secretariat, *Annual Report 1997/8*, Suva, 1998.

South Pacific Forum Secretariat, *Forum Review*, Suva, December 1997.

Standards for the Vocational Preparation of Australian Legal Practitioners, APLEC, 1997

USP, *Institutes of the University of the South Pacific*, Suva

USP, *Law at USP Handbook*, 1998.

Walsh AC, *Ten reasons why what we're doing may not help: Aid, poverty and development*, Suva: USP, 1997.