NATIONAL INTEGRITY SYSTEM STUDY

FOUNDATIONS OF THE NATIONAL INTEGRITY SYSTEM

About the Transparency Vanuatu National Integrity System Study Discussion Papers Series
The National Integrity System (NIS) study follows a methodology developed by the Transparency International Secretariat in Berlin. This methodology provides the structure of the report and identifies the questions to be addressed. The Vanuatu NIS study examines 13 key institutions, or "pillars": legislature, executive, judiciary, ombudsman, auditor general, public service, law enforcement, media, private business, customary authorities, electoral commission, political parties and civil society. The research aims to develop consensus of the key recommendations for change. Each pillar discussion paper is based upon review of laws, documents and interviews. Discussion papers are released to the advisory group, external reviewer and the public. The discussion paper is a work-in-progress. All comments, corrections or additions are welcome. Comments are requested by the end of February 2014. Comments can be returned to Transparency Vanuatu in writing or in person (contact details above). If you would like to be added to the email list to be notified when further discussion papers are released or when public meetings on the report are held please contact Transparency Vanuatu.

INTRODUCTION

The political, social, economic and cultural foundations of the Republic of Vanuatu are particularly affected by two facts. First, Vanuatu has only been independent for 33 years. Vanuatu was grouped into a single administrative area by English and French colonial authorities who commenced colonial administration (in law, if not in practice) in 1906. Vanuatu gained Independence in 1980. The indigenous population did not form a single state or a homogeneous ethnic grouping prior to colonisation. Centralised authority did not exist. Instead societies were clan or village based. The communitarian values these small scale societies were based on are very different to the values of a modern representative democracy.[1] As a result in contemporary Vanuatu the operation of a democratic nation state is confronted by the lack of connection between the system of governance established on Independence and traditional forms of authority.[2]

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[1]. In the Vanuatu context William FS Miles, *Bridging Mental Boundaries in a Postcolonial Microcosm* (1998) is devoted to the boundaries between custom, colonialism, and the nation of Vanuatu. See, in particular chapter 2 for boundaries between custom and the nation of Vanuatu. For general discussion of differences in values between modern democracies and small scale traditional societies see Amitai Etzioni, 'Law in Civil Society, Good Society and the Prescriptive State' (2000) 75(2) *Chicago Kent Law Review* 355.

[2] It has been observed that: 'Prior to Independence, authority was either exercised by force by the two colonial powers or else was traditional and achieved its legitimacy through belief in the sanctity of traditions, *kastom* and obedience to community leaders… At Independence there was a sudden shift to a different type of authority and a different, legal-rational basis of legitimacy.' (Miranda Forsyth, *A Bird that Flies with Two Wings: The kastom and state justice systems in Vanuatu* (2009), 10.)

Second, Vanuatu's population of approximately 250,000 people[3] is dispersed over 64 islands. Only six islands having a population of more than 10,000 people (Efate, Espiritu Santo, Tanna, Malekula, Pentecost and Ambae).[4] 'Geographical considerations combined with resource considerations means that many parts of state legal systems are concentrated in urban areas, and simply do not have a presence in "the outer islands" or rural areas.'[5] As a result 'many people see the state government as a remote concept with little impact on their lives'.[6] The absence of state authority in many areas complicates the challenge of developing a sense of nationhood, the values associated with democratic governance and an effective national integrity system.

POLITICS

To what extent are the political institutions in the country supportive to an effective national integrity system?

Whilst civil and political rights are protected at law and generally respected and representative democracy is embedded in law, democratic processes are not well embedded in social practice. This contributes to political instability, which undermines the quality and consistency of leadership. This is turn undermines development of an effective and consistent national integrity system.

Vanuatu's constitutional form is a representative democracy. Parliament is unicameral and is comprised of 52 members. Once parliament is elected the members of parliament collectively form the legislature. The executive is drawn from parliament, with members voting to elect the prime minister,[7] who then appoints his (Vanuatu has only ever had male prime ministers) cabinet.[8] Parliament is formed through national elections which occur at intervals of no more than four years.[9] The country is divided into 17 constituencies, with the number of seats per constituency determined by the population in that constituency.[10] Voting is done on the basis of a single non transferable vote.[11] There is universal suffrage for citizens and all citizens can stand for election.[12]

A range of civil and political rights, including freedom of expression, freedom of association and freedom from discrimination are enshrined in the *Constitution.*[13] If constitutional rights are violated individuals have redress in the Supreme Court.[14] The US Department of State observed that Vanuatu does have a 'freely elected government'[15] and did not observe issues with the violation of civil liberties or political rights such as the freedom of association and freedom of speech in 2012. The

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[3] In 2009 the population was 234,000, with an annual growth rate of 2.3% (Vanuatu National Statistics Office, *2009 National Census of Population and Housing Summary Release* (2010), iii.)

[4] Vanuatu National Statistics Office, *2009 National Population and Housing Census Basic Tables Report, Volume 1* (2011) 12 – 13.

[5] Anita Jowitt, 'The Future of Law in the Pacific' (2008) 12 (1) *Journal of the South Pacific Law* 43, 44 http://www.paclii.org/journals/fJSPL/vol12no1/pdf/jowitt.pdf (Accessed 8 September 2009).

[6] Forsyth, above n 2, 3.

[7] Article 41 *Constitution of the Republic of Vanuatu.*

[8] Article 42, *Constitution of the Republic of Vanuatu.*

[9] Article 21(1) *Constitution of the Republic of Vanuatu.*

[10] *Representation of the People Parliamentary Constituencies and Seats Order 2002*.

[11] Section 33 *Representation of the People Act* [Cap 146].

[12] Article 17 *Constitution of the Republic of Vanuatu.*

[13] Article 5 *Constitution of the Republic of Vanuatu.*

[14] Article 6 *Constitution of the Republic of Vanuatu.*

[15] US Department of State 'Vanuatu 2012 Human Rights Report' p 1. http://www.state.gov/documents/organization/204460.pdf

Brookings Institute index of 141 weak states rates states on their economic, political, security and social welfare performance. Vanuatu scores well, with an overall score of 7.7/10, which places it in the top quintile of countries.[16] Vanuatu faces a number of human rights concerns, however. The US Department of State observes that a number of human rights abuses are present, including 'violence against women… police violence, poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and discrimination against women.'[17] Violations of the rights of women are particularly pervasive.

Notwithstanding its constitutional form and generally positive civil and political rights record the Vanuatu political environment is somewhat unstable, which leads to weaknesses in governance. The current political environment is becoming increasingly fragmented.[18] Since the election in 1991 no one party has garnered enough seats to be able to govern on its own, resulting in the necessity of government by coalition.[19] There are currently 16 parties and 4 independents in parliament,[20] with 12 parties and one independent in government.[21] Large coalitions are inherently unstable and there are frequent changes in cabinet, coalition and government.[22] The need to maintain coalitions may also lead to political compromises which undermine "good governance". Van Trease observes that that last Prime Minister to survive a full four year term, Ham Lini, 'managed to do so because Lini was able to stay in power mainly because he refused to take action… or make decisions that could jeopardize the coalition. Maintaining political stability was his prime objective.'[23]

Increasing fragmentation within politics has, to a degree, been influenced by traditional culture and the traditional "big man" model of authority. Power under the "big man" model of authority may be obtained through, amongst other things, developing influence through exchange.[24] The development of influence through exchange affects the perception of the role of political leaders and the operation of the democratic process. At election time, candidates tend not to attract support on the basis of clearly articulated policy positions and are not expected to act as a voice for those policy positions within parliament. Instead, members of parliament are 'expected to provide

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[16] Susan E Rice and Stewart Patrick, 'Index of State Weakness in the Developing World' (2008) p 42. http://www.brookings.edu/~/media/research/files/reports/2008/2/weak%20states%20index/02_weak_states_index.pdf

[17] US Department of State, above n 15.

[18] For further see Michael G Morgan, 'The Origins and Effects of Party Fragmentation in Vanuatu' in Roland Rich, Luke Hambly and Michael Morgan (eds) *Political Parties in the Pacific* (2006) 117.

[19] Ibid, 127 – 130.

[20] Pacific Institute of Public Policy, 'The Waiting game' (15 November 2012) http://www.pacificpolicy.org/blog/category/vanuatu-election-2012/ (Accessed 25 November 2012).

[21] Pacific Institute of Public Policy, 'Coalition government formed' (21 November 2012) http://www.pacificpolicy.org/blog/category/vanuatu-election-2012/ (Accessed 25 November 2012). By the first week of December the first motion of no confidence was filed with the Speaker. It should have been tabled in Parliament on 7 December but the opposition boycotted the Parliament session after former opposition member Kalvau Moli was offered a cabinet position. (Campbell Cooney, 'Vanuatu opposition boycotts own no-confidence vote' *Radio Australia* 7 December 2012). http://www.radioaustralia.net.au/international/2012-12-07/vanuatu-opposition-boycotts-own-noconfidence-vote/1057638 (Accessed 8 December 2012)). It is not clear exactly how many parties are in the government at the moment.

[22] For details of changes see the Vanuatu political reviews published annually in the Fall edition of *The Contemporary Pacific*. Between the 2008 and 2012 elections the prime ministership changed seven times, with four of these changes subsequently being voided by court action.

[23] Howard Van Trease, 'Vanuatu Political Review 2009' (2010) 22(2) *The Contemporary Pacific* 467, 467.

[24] Marshall Sahlins, 'Poor Man, Rich Man, Big Man, Chief: Political types in Polynesia and Melanesia' (1963) 5(3) *Comparative Studies in Society and History* 285.

access to resources and "development" funds. Indeed, all members of parliament act as central nodes in networks of distribution and exchange focused on access to state resources.'[25] The legal structure facilitates this dynamic. Members of parliament are provided a representation allowance 387,167 vatu per month (US$3870).[26] This allowance combines their "salary" and an annual allocation of 2 million vatu (US$20,000) to be spent in their constituency.[27] There is no requirement that members of parliament account for the constituency allocation in any way.

This dynamic undermines the operation of policy or values based politics. It also creates an incentive for destabilising coalition governments. Because government, and particularly cabinet, positions allow members of parliament greater access to resources with which to provide returns to their constituencies, a situation occurs in which 'members of parliament are forced into frantic efforts to join government and gain access to the state's funds. This… [diverts] the attention of members of parliament from their institutional roles as law makers, overseers of government, and representatives.'[28]

The close patronage relationship between members of parliament and their supporters is also fostered by the nature of the electoral system. Vanuatu has a single non transferable vote system. Within each of the 17 constituencies between 1 and 7 candidates are elected. In the 2012 election the member of parliament with the highest total number of votes, Ralph Regenvanu, only won 12.76% of total votes cast within his constituency.[29] No candidate won more than 50% of votes in his or her constituency. The median percentage of votes gained by elected candidates was 6.87%. Transparency Vanuatu observes that 'If we consider that democracy should be founded on a certain majority and that our members of parliament should represent the majority, then our actual system of election is a clear mockery to the democratic principle. While this system has worked fine in our history when only few political parties existed, the actual fragmentation can only lead to a poorer democracy.'[30]

The nature of the instability within Vanuatu's political institutions affects continuity of policy and the ability of the Executive to implement consistent policy. It also affects the law making role of Parliament and its ability to act as a check on the Executive. These things reduce the ability to implement changes that would enhance the national integrity system.

SOCIETY

To what extent are the relationships among social groups and between social groups and the political system in the country supportive of an effective national integrity system?

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[25] Michael G Morgan, 'Political fragmentation and the policy environment in Vanuatu, 1980–2004' (2004) 19(3) *Pacific Economic Bulletin* 40, 45. See also Howard Van Trease, 'Vanuatu's 2008 Election - Difficulties of Government Formation in a Fractionalized Setting' (State Society and Governance in Melanesia Briefing Note 1/2009).

[26] Parliament (Members' expenses and allowances) Amendment Act 2012.

[27] Email from MP Ralph Regenvanu, 10 November 2010, https://www.facebook.com/notes/vote-against-merging-of-vanuatu-mp-allocation-and-salary/email-from-mp-ralph-regenvanu/140403422677768.

[28] Ibid.

[29] Transparency Vanuatu, 'Election Observer Report 2013' p 20.

[30] Ibid.

Vanuatu is ethnically and linguistically diverse. Violent "inter-island" disputes sometimes arise, particularly in urban areas. The main group that experiences socially rooted political exclusion is women. A growing source of tension is the relationship between indigenous ni-Vanuatu and non-indigenous citizens and residents but this tension is currently not so pronounced as to be destabilising.

About 95% of the population is indigenous ni-Vanuatu.[31] Whilst the indigenous population is broadly Melanesian, the cultural environment is diverse. Over 100 linguistically distinct cultures exist, leading a former President of Vanuatu to observe that is 'like 100 nations inside one country.'[32] This diversity reduces the potential for large scale race based conflict because there is no single dominant race that stands in opposition to one or more minorities.

Conflicts between different indigenous ethnic groups do sometimes break out. These particularly occur in urban areas, where a diverse population comes together and jealousies between communities may exist. There are also weaker customary authority systems to help maintain order. Most notably, in 2007 a violent conflict between Ambrym and Tanna communities living in Port Vila led to a state of emergency being declared. There were 3 deaths and a number of hospitalisations. A number of properties were also burned.[33]

The ethnic diversity, as well as reducing a sense of nationhood, also fosters a political environment of patronages. As discussed in the politics section above, parliamentarians tend to have a patron-client relationship with their constituencies. Part of the reason for this is the extreme cultural diversity, coupled with the fact that customary social systems continue to be an important aspect of social ordering. 'Kinship ties, often referred to as the wantok system, are central to custom, and are the basis of political groupings, which tend to be small and localised.'[34] These factors can lead to "islandism" within politics, with political leaders acting in the local, rather than national, interest.

The links between politicians and communities mean that civil society, in the sense of NGOs, does not necessarily play a mediation role between the political system and the public. Instead, civil society tends to be active in mediating between "introduced" values such as human rights and democracy and traditional culture.

A further division that was observed in the 2004 Vanuatu National Integrity System report is the "Anglophone/Francophone" divide. One legacy of Vanuatu's colonial history is a dual education system, with some educated in French and some in English. For the first 12 years post Independence Government was Anglophone, with the Opposition being Francophone. The proliferation of parties and the growth of coalition government has resulted in the Anglophone/Francophone divide being of limited significance now. However, changes between Francophone and Anglophone dominated

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[31] The 2009 census report does not contain data on ethnicity but during the 1999 census 98.7% of the population identified as ni-Vanuatu and 99% of the population were Vanuatu citizens. (Vanuatu National Statistics Office, *The 1999 Vanuatu national population and housing census: Main report* (2000) 19.) The 2009 census provides data on citizenship. About 96% of the resident population are citizens by birth, with a further 3.5% being citizens by naturalisation. Expatriates (citizens of other countries who are resident in Vanuatu) account for less than 1% of the population. (Vanuatu National Statistics Office, above n 4, 27.)

[32] Kalkot Mataskelekele quoted in Forsyth, above n 2, 21.

[33] For a brief description of these events see Anita Jowitt, 'Vanuatu review 2007' (2008) 20(2) *The Contemporary Pacific* 475.

[34] Anita Jowitt, Yoli Tom'tavala and Joseph Foukona, 'Customary law and public health' (Technical paper prepared for Model Public Health Law for the Pacific Islands Project, La Trobe University, 2009) 3.

ministries can create instability and inefficiency as staffing, policies and programmes may shift to favour one linguistic group over the other. The most notable area that Anglophone/Francophone politics and policy shifts affects is education, as Vanuatu maintains a dual English/French education system.

Although Melanesian societies can be either matrilineal or patrilineal, Vanuatu society is patriarchal and 'there is an enormous division among ni-Vanuatu based on gender.'[35] Violence against women is endemic. A 2011 survey found that 'Over half of ever-partnered women (51%) experienced some type of physical violence in their lifetime, and 1 in 3 (33%) were physically abused in the last 12 months.'[36] This survey also found that violence against women is viewed as normal or acceptable by women. Three in 5 women (60%) agreed with at least one justification for a man to beat his wife. More than half of the women interviewed (53%) believe that if bride price is paid, a woman becomes the husband's property.[37]

 Women are underrepresented in politics, with only 17 of the 346 candidates contesting the 2012 national election being female. 'Since Independence in 1980, only 5 women have ever been elected to Vanuatu's National Parliament.'[38] There is awareness of this issue, however, and in 2013 Parliament passed a law reserving 30% of seats in municipal councils for women.

There is, maybe, growing resentment towards non-indigenous Vanuatu citizens. The current Prime Minister is a naturalised citizen, and has been publically attacked on this basis.[39] An amendment to the Representation of the People Act in 2012, which attempted to require rural candidates to either be indigenous to their electorate or adopted into their electorate was ruled to be unconstitutional as creating race based discrimination.[40] Families who have been in Vanuatu for generations are not always recognised as "local", particularly if they of Asian descent. More generally anti-Asian sentiment is growing.[41] The tensions between "foreign" and "local" are part of wider post-colonial issues as to the extent to which development can fit with local culture,[42] particularly if it poses a threat to customary land ownership,[43] or to economic opportunities. They also reflect reactions to historical exploitation during the colonial period.[44] It somewhat telling that a book on minority rights in the Pacific does not recognise non-indigenous citizens of non-Pacific descent as being

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[35] Miranda Forsyth, above n 2, 13.

[36] Vanuatu Women's Centre in partnership with the Vanuatu National Statistics Office *Vanuatu National Survey on Women's Lives and Family Relationships* (May 2011) p 56.

[37] Ibid, p 55.

[38] Pacific Women in Politics, Vanuatu http://www.pacwip.org/current-elections/vanuatu.html.

[39] See, for example, 'Letter to the editor', *Vanuatu Daily Post Online*, 29 May 2013 http://www.dailypost.vu/content/re-election-naturalized-citizen-prime-minister-0.

[40] *Bohn v Republic of Vanuatu* [2012] VUSC 42.

[41] See, for example, 'Letter to the editor', *Vanuatu Daily Post Online* 26 September 2013, http://www.dailypost.vu/content/tumas-chinese-long-port-vila.

[42] See, for example, Antony Hooper, 'Introduction' in Anthony Hooper (ed), *Culture and Sustainable Development in the Pacific* (2000), 1, 1 .

[43] See, for example, Lara Daley, 'Hijacking development futures: "Land development" and reform in Vanuatu' in Tim Anderson and Gary Lee (eds), *In Defence of Melanesian Customary Land* (2010) 34, 38 http://www.aidwatch.org.au/sites/aidwatch.org.au/files/Lara%20Daley_0.pdf (Accessed 10 June 2012).

[44] For a discussion of colonial exploitation see Ati George Sokomanu, 'Government in Vanuatu: The Place of Culture and Tradition' in Ron Crocombe *et al* (eds), *Culture and Democracy in the Pacific* (1992) 49, 51.

"minorities", despite the fact that they are numerical and political minorities and have no right to own land.[45]

ECONOMY

To what extent is the socio-economic situation of the country supportive to an effective national integrity system?

Vanuatu has a weak formal economy, which limits the resources available for government programmes. There is a divide between resources in rural and urban areas. There is also a divide between people engaged in the cash economy and those who are not. The presence of a strong informal traditional economy in rural areas means that "poverty" in the form of starvation and destitution are not significant problems for Vanuatu. Rather mainstream poverty analysis raises concern about lack of opportunity to access goods such as education. Poverty has a particular impact on women.

Vanuatu is on the United Nations list of least developed countries, primarily because its economy is small and remote and is vulnerable to natural shocks and trade shocks.[46] Part of the reason for this is that Vanuatu's economy relies on agriculture and tourism and both of these sectors are vulnerable to natural disasters including cyclones, earthquakes, volcanoes and tsunamis. The vulnerability of agriculture to shifts in world commodity prices and the vulnerability of tourism to the economic performance of its major tourism markets (currently Australia and New Zealand) are other factors outside of Vanuatu's control that contribute to the vulnerability of the economy.[47] Political instability has also, at times, resulted in mismanagement and hindered foreign investment, particularly in the 1990s.[48]

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[45] Joshua Castellino, David Keane, *Minority Rights in the Pacific Region: A Comparative Analysis* (2009) pp 28 - 29.

[46] The United Nations Committee for Development Policy considers three criteria in deciding whether a country is a least developed country: 'a "low-income" criterion, based on a three-year average estimate of the gross national income (GNI) per capita…; a "human assets weakness" criterion, involving a composite index (the Human Assets Index) based on indicators of (i) nutrition (percentage of the population that is undernourished); (ii) health (child mortality rate); (iii) school enrolment (gross secondary school enrolment rate); and (iv) literacy (adult literacy rate); and [a]n "economic vulnerability" criterion, involving a composite index (the Economic Vulnerability Index) based on indicators of (i) natural shocks…; (ii) trade shocks…; (iii) exposure to shocks…; (iv) economic smallness… and (v) economic remoteness.' (United Nations Conference on Trade and Development, *The Least Developed Countries Report 2011* (2011) iii.) Vanuatu ranks highly in respect of the low-income and human assets weakness criteria. Its low ranking on the economic vulnerability index accounts for its current position as a least developed country. (UN Development Policy and Analysis Divisio, 'LDC Factsheet Vanuatu'
http://www.un.org/en/development/desa/policy/cdp/ldc/profile/country_206.shtml)

[47] TK Jayaraman, 'Being least developed' *Fiji Times online* 3 February 2009,
http://www.fijitimes.com/story.aspx?id=113472 (Accessed 10 January 2011)). See Cynthia Ala & Philip Arubilake, 'Chapter 1: Domestic Economy' in Simeon Athy & Ferdinand van der Walle (eds), *20 Years of Central Banking in Vanuatu* (2000) 12 for an overview of Vanuatu's national economy. See also David Cowen, Alexander Wolfson & Jian Ming Ni, *International Monetary Fund Vanuatu Country Report* (2002) available online at http://www.imf.org/external/pubs/cat/longres.cfm?sk=16224.

[48] See Cynthia Ala & Philip Arubilake, above n 47 David Cowen, Alexander Wolfson & Jian Ming Ni, above n 47. Conversely, relative political stability has been used to partially account for periods of growth in GDP (See

Economic growth is further hindered because the development of local business is limited by weak infrastructure, particularly outside of urban areas. Grid electricity supply is primarily limited to the urban areas.[49] Inter island shipping is not always reliable, access to airstrips is limited and flights between islands are very costly. Road networks are poor.[50] These factors limit access to the primary domestic markets for goods and services. As a result business activity is almost entirely urban based. Costs of production are also high. This is, in part, because many goods used in the process of production need to be imported[51] and Vanuatu's remoteness makes transportation costs associated with importation high.[52] Similarly, the cost of exporting goods by ship or by plane is a hindrance to the development of export markets.[53]

In terms of human development in 2011 Vanuatu was in the bottom third of medium development countries on the United Nations human development index (HDI), with a rank of 125 out of 197 countries.[54] The HDI ranks countries based upon life expectancy at birth, the average number of years of education people over the age of 25 have received and GDP per capita.[55] The 2011 HDI stated that income per capita was $3950 (2005, purchasing power parity US$).[56] Since 1985 life expectancy has increased 16.6%, to 71 years and average years of education has increased 13%.[57] Functional literacy, which requires that a person be able to read and write, was estimated in 1999 to be 30% for women and 37% for men.[58] The 2009 census data stated that the percentage of the population who could read and write a simple sentence (so have basic literacy, which may not be the same as functional literacy) was 84.8%.[59] Functional literacy is further complicated by the dual education system that Vanuatu maintains, which has arisen because Vanuatu was jointly colonised by both the British and the French. When considering literacy by language, 64% of the population can read and write a simple sentence in English, 37% can read and write a simple sentence in French and 74% can read and write a simple sentence in Bislama,[60] a pidgin that is the national language of Vanuatu.[61]

The state does not fund social security benefits such as old age, unemployment or disability benefits. Instead the continuation of traditional lifestyles within the informal economy provides a "social safety net" which mitigates against poverty. The majority of the labour force operates within the informal economy, with 2009 census data indicating that about 61% of the labour force engage in

Marcus Cox *et al,* 'The Unfinished State Drivers of Change in Vanuatu (2007) 15 www.ausaid.gov.au/Publications/Documents/vanuatu_change.pdf i).

[49] Vanuatu National Statistics Office, above n 4,181.

[50] Vanuatu National Statistics Office, above n 4, 77 – 83.

[51] In February 2012 the balance of trade was -2051 million vatu. (Vanuatu National Statistics Office, 'Statistics Update: Overseas Trade February 2012 Highlights' http://www.vnso.gov.vu/images/stories/Releases/Highlights.pdf (Access 14 May 2012).)

[52] Cox *et al*, above n 48, 4.

[53] Cynthia Ala & Philip Arubilake, above n 47.

[54] United Nations Development Programme, 'Vanuatu HDI values and rank changes in the 2011 Human Development Report' (2011) http://hdrstats.undp.org/images/explanations/VUT.pdf (Accessed 11 November 2012) 2.

[55] Ibid, 1.

[56] Ibid, 2.

[57] Ibid, 2.

[58] United Nations Development Program *Pacific Human Development Report 1999* (1999) 105.

[59] Vanuatu National Statistics Office, above n 4, v.

[60] Ibid.

[61] *Constitution of the Republic of Vanuatu* Article 3(1).

subsistence agriculture, unpaid family work or "subsistence plus surplus" activities which involve producing some goods for sale at markets, as their principal economic activity. The fact that the Constitution protects customary land ownership has helped to ensure the continuation of traditional economic structures.

In rural areas, where people primarily reside on their customary land, 'ni-Vanuatu still live in "subsistence affluence", enjoying plentiful natural resources in an unspoilt environment.'[62] Whilst 'lack of economic opportunity and growing demand for the trappings of modern life are placing stresses on rural communities'[63] these stresses are different from those experienced in urban areas, where many people are immigrants from other islands, so do not have "free" customary land to on which to dwell.[64] In contrast urban dwellers often live in densely populated settlements that restrict opportunities to engage in subsistence activities and require more cash for food and other basic needs such as housing, water and cooking fuel.[65] The basic needs poverty line reflects this. The adult per capita basic needs poverty line in 2006 was estimated by the Asian Development Bank (ADB), using Household Income and Expenditure Data to be 11,075 vatu per month in Port Vila, 6,110 vatu per month in Luganville and 3,366 vatu per month in rural Vanuatu.[66] The number of households in 2006 whose income fell below the basic needs poverty line was 27.2% in Port Vila, 9.2% in Luganville and 8.5% in rural Vanuatu.[67] This report observed that households below the poverty line are unlikely to be starving. Instead they are faced with hard choices:

> households with income or expenditure below the basic needs poverty line level will not necessarily be going hungry, although their diet is likely to be poor in nutrition. It means, more likely, that whilst they are probably not going hungry they are, nevertheless, struggling to meet their daily/weekly/monthly living expenses, particularly those that require cash payments (power, water, transport, costs of sending children to school, clothing, housing, medical costs etc). These families will be constantly trying to balance their incomes with their expenditure and frequently something has to be given up, a trade-off will have to be made between paying one bill and another, food or fees.[68]

Income inequality is also an issue. 'In Port Vila the lowest 20% of households (as ranked by per capita adult equivalent expenditure quintiles) accounted for only 5% of the total expenditure, whereas the highest 20% accounted for 52% of total expenditure. In the other urban area Luganville the lowest 20% of households had a higher proportion of total expenditure at 6% which was the same as that for rural areas.'[69] These figures do not measure wealth inequality, which would also take into

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[62] Marcus Cox *et al*, above n 48, 4.

[63] Ibid.

[64] 92% of the rural population, as compared to 41% of the urban population has free access to customary land (Vanuatu National Statistics Office and Malvatumauri, *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012* p 21).

[65] Marcus Cox *et al*, above n 48, 16 – 17.

[66] Vanuatu National Statistics Office, above n 4, v.

[67] Vanuatu National Statistics Office, *Vanuatu Analysis of the 2006 Household Income and Expenditure Survey Report on the Estimation of Basic Needs Poverty Lines, and the Incidence and Characteristics of Poverty in Vanuatu* (undated). The *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012* indicates that 9% of those who had access to customary land reported that their land was unable to provide for their families' needs, which is similar to the level of rural poverty found by the ADB analysis.

[68] Vanuatu National Statistics Office, above n 67, [128], p 46.

[69] Vanuatu Office of the Prime Minister, *Millennium Development Goals 2010 Report for Vanuatu* (September 2010) p 6.

account access to customary land, resources and traditional wealth items. Wealth inequality might not be as pronounced. The Alternative Indicators survey found that nationally 49% of households considered themselves to be equal to, or better off then, others in their community. The figures were lower in urban areas, with 41% considering themselves to be equal to, or better off than others.[70]

Vanuatu is not economically independent and aid is an important source of income for the country. In 2010 overseas development assistance accounted for 16% of gross national income. [71] The tax base has, in the past, been largely dependent on taxes on international trade (which in 2009 accounted for 38% of tax revenue[72]). In 2012 Vanuatu joined the World Trade Organisation (WTO), and there is some concern that obligations created by this will lower tax revenue.[73] Vanuatu has also suffered tax revenue losses through its participation in the Melanesian Spearhead Group Trade Agreement. It has been observed that 'financing continued public investment while preserving low debt will require additional tax revenue measures'.[74] Whilst the Vanuatu Government is exploring ways to strengthen its tax base, a fragile business sector and low rates of participation in the cash economy by much of the population poses particular challenges.

This socio-economic environment hinders the development of an effective national integrity system in a variety of ways. Government has limited resources to commit to policy initiatives to strengthen integrity and limited options for increasing revenue. Households who are struggling to pay bills are more likely to forego educating their children. Low education levels reduce informed debate, which in turn can reduce demand for change. Low income households are also less likely to be able to afford to participate in debates about national issues (as radios, newspapers, transport to meetings all take money) that are, maybe, far removed from their daily realities. Inequality and lack of opportunity is also a potential driver of unrest and crime, which can divert resources into basic law and order maintenance functions.

CULTURE

To what extent are the prevailing ethics, norms and values of society supportive to an effective national integrity system?

Recent data suggests that honesty is not a highly prized value. Nor is there a high level of trust that others are acting in accordance with local values. There is also a perception that "things are getting worse". A previous NIS study identified a culture of fear of confronting leaders, and more recent data supports this finding.

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[70] Vanuatu National Statistics Office and Malvatumauri, *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012* p 71.

[71] World Bank, 'Net ODA received (% of GNI)' http://data.worldbank.org/indicator/DT.ODA.ODAT.GN.ZS

[72] Kai Schlegelmilch, 'VANUATU Options for promoting Environmental Fiscal Reform in EC Development Cooperation Country case study Vanuatu (April 2010) p 3 http://www.foes.de/pdf/2010-09-29%20Vanuatu%20-%20FINAL.pdf .

[73] Pacific Institute of Public Policy, 'Joining the World's Economic Parliament' (July 2011) http://dangay.files.wordpress.com/2011/07/van-wto-pipp-130711.pdf.

[74] Mary Swires, 'IMF_Recommends Increased Taxes For Vanuatu' (26 June 2013) http://www.tax-news.com/news/IMF_Recommends_Increased_Taxes_For_Vanuatu____61179.html.

Surveys such as the World Values Survey and the Global Barometer which levels of public trust or "public-mindedness" have not been conducted in Vanuatu. However, the *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012* provides some data on how culture affects integrity. This study asked respondents how important ten "Melanesian values" were to them personally, and how important they thought each value was to others in society. The table below reports both whether people think the value is important for themselves, and whether they think other people in society see it as an important value.

As the table below indicates, honesty was not seen to be a particularly important value. Reciprocity was more valued. A strong family and respect for family were also more important values than honesty. This data is consistent with commentary in the 2004 Vanuatu NIS study that found 'One obvious source of conflict [between the national integrity system and culture] is the Melanesian notion of gift giving, which to Western eyes can appear as bribery. The *wantok* system, which is a system of relationship and reciprocity between kin and villagers, is also blamed for nepotism within the public service.'[75]
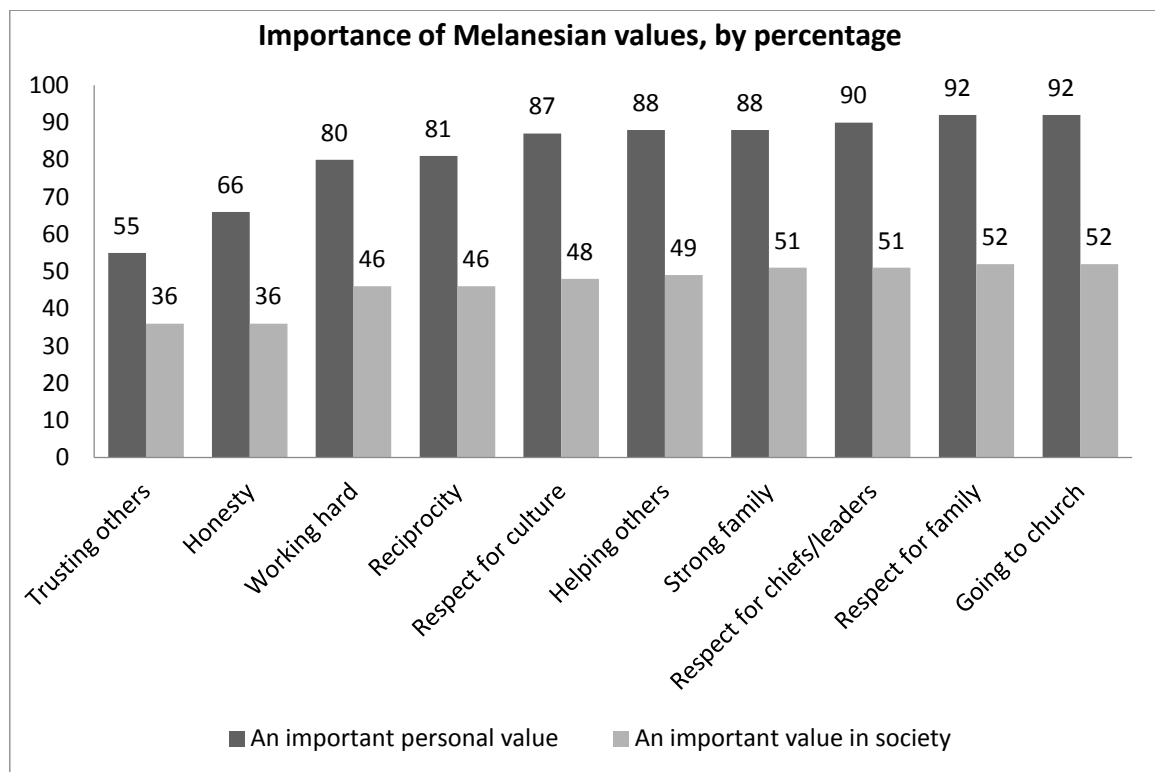
It is also interesting to note that respondents' perceptions of others value systems indicated a lack of faith that values were well respected by others. This is consistent with the finding that only 30% of respondents had a high level of trust in their neighbours.[76] It is also consistent with the finding that perceptions of the level of community cooperation were not high, with only 22% of urban dwellers and 46% of rural dwellers reporting community cooperation to be strong.[77]
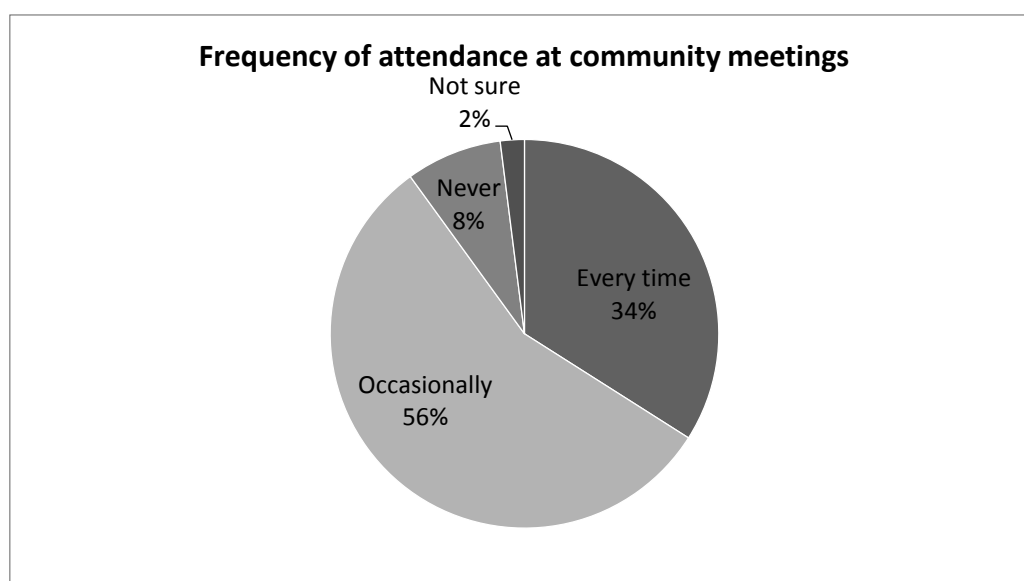
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[75] Newton Cain, Tess and Anita Jowitt, *Vanuatu National Integrity Systems Country Study* (2004).
p 12.
[76] Vanuatu National Statistics Office and Malvatumauri, *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012*, p 63.
[77] Ibid, p 76.

Respondents also perceived that the cultural environment had deteriorated over the past 2 − 3 years: positive values of respectfulness, family priority, cooperation and faithfulness were perceived to have gotten weaker by the majority of respondents (70%, 64%, 61% and 58% respectively). At the same time negative values of dishonesty and greed & selfishness were perceived to have gotten stronger (by 72% and 78% of respondents respectively).[78] This data suggests that in Vanuatu there is widespread mistrust that others are "doing the right thing".

Whilst this study did not directly address levels of participation and apathy in state governance, it did measure participation in community governance. As the chart below indicates, the majority of respondents did attend meetings.

Frequency of attendance at community meetings

- Not sure 2%
- Never 8%
- Every time 34%
- Occasionally 56%

Of those that attended meeting 67% actively participated by speaking sometimes or always. Whilst attendance and participation was lower for females and young people,[79] this data indicates that, at a community level, "public mindedness" is present. It also suggests that developing a stronger (two-way) link between community governance structures and national governance structures may be a mechanism to both build awareness of issues and increase public participation.

Another aspect of culture that affects the operation of the national integrity system is fear. Respect for leaders and family may, at times, be closely associated with unquestioning acceptance. The 2004 NIS Study reported that 'People may rather live with the consequences of poor and corrupt government than face the hazards of confrontation with those in power. Th[e] fear of Black Magic is deeply entrenched… This belief greatly reduces the courage required for people to stand up for what is right in the political and social spheres'.[80] The Alternative Indicators Study supports the presence of this fear, with 65% of respondents being very or slightly afraid of black magic.[81] There is a more general sense of personal insecurity, with 58% also being afraid of violent personal attack.[82] This

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[78] Ibid, pp 74 – 77.

[79] Ibid, 56- 57.

[80] Newton Cain, Tess and Anita Jowitt, *Vanuatu National Integrity Systems Country Study* (2004) pp 12 – 13.

[81] Vanuatu National Statistics Office and Malvatumauri, *Alternative Indicators of Well-being for Melanesia Vanuatu Pilot Study Report 2012* p 68.

[82] Ibid.

study does not explore the extent to which confronting those with authority creates fear of negative consequences. Anecdotes of people who saw corruption but were too afraid of negative consequences (not only violence and Black Magic) to do anything were collected during the course of this research, which suggests that there is, to a degree, a cultural dynamic which reinforces silence at times.