vanuatu law, the police and restorative justice

former Police Commissioner Peter Bong
examines the challenges facing the Vanuatu Police Force, the
potential role of restorative justice and the benefits of
community policing. He has based his analysis on views
expressed by his executive and commanders.

IN MY VIEW, proper research is needed before a review of the police is undertaken and before existing laws are revised so that they can better address the needs of the South Pacific region, particularly in Melanesian and Polynesian societies. During the past, legislation in Vanuatu was framed primarily from the perspective of Western society and its legal system. Such legislation bypassed the customary laws of our communities and the powers held by our customary chiefs. And yet customary systems have long been the foundation of our society and lie close to its heart. Due to those colonial arrangements the public now has no real sense of ownership over this foreign legislation and feels rather strange when it is applied without reference to *kastom* law. It was for this reason that I proposed some modifications to the content of lectures on the 'Management of Crime' at the University of South Pacific. My proposed changes included the recommendation that a serious study be made of crimes that were bound up with ethnic tension in the South Pacific region. I made this recommendation a few weeks before the recent coup struck in Fiji and before the uprising occurred in the Solomon Islands.

During my talk to this conference, however, I wish to touch on the following themes: the role of the Vanuatu police force, some restrictions placed on the restorative role of the Vanuatu police force, and reform of the Vanuatu police force. The main role of the police in the communities is to provide protection and to ensure that the public adheres to the law. Since the introduction of the present legal system, assessments of police functions have tended to be too formal. Because the police force has been presented with many new challenges over the years, the need has arisen to review its role in our society and its many communities. In 1997 we received assistance from the Australian Defence Force to undertake major reforms of our force and to promote community policing. The concept of community policing was already familiar to our chiefs. It has more flexibility than the introduced methods for maintaining law and order and encourages a more informal approach to restoring justice in our communities. During the last riots the proper functioning of the police was being hindered by corruption at higher levels. We therefore took it upon ourselves to consult directly with the chiefs about the application of appropriate policing tactics. It was decided that the best measures to adopt for broad community acceptance and support were measures that best promoted lasting peace. Had the police relied on force, the situation would likely have deteriorated and, as a consequence, the reputation of the police been severely damaged.

The methods that we use in community policing in Vanuatu include:

1. **Consultation.** Traditionally our people are used to consulting each other and find it a more acceptable method of dealing with conflict than overbearing approaches.
2. **Negotiation.** Again this includes a two-way process of discussion.
3. **Public Education.** Meetings are held to promote relations between the police and the public. Some are associated with crime prevention programs. They are held in schools, in villages and in institutions.

4. **Informal Visits** to homes and villages. These convey that the police are here to assist the community rather than to dominate it.
5. **Informal Settlements.** By not resorting to the Western courts, members of traditional communities often improve the chances of securing lasting settlements.

The Chief Justice has referred earlier to the Western courts as traditional courts. With respect, I wish to dispute that view in the Vanuatu context. The courts that were introduced originally by the British and French administrations and the versions that were adopted after Independence were, and remain, Western-style courts. They are not traditional courts in the Vanuatu setting. In practice the police have been encouraging settlements through compensation and the use of chiefs to provide assistance in resolving problems before they get out of hand, i.e. trying to contain and resolve problems while they remain relatively minor.

One of the innovations that we are working on — and that we have adapted from the Fijian Police — is the upgrading of a community sub-police force. This has become necessary because the reform program that was pushed onto our police force in order to enable us to extend more effectively into our communities has, in practice, actually limited our capacity. Instead of gaining a more effective force, the review and its associated ‘reforms’ has resulted in the redundancy of over 100 policemen throughout Vanuatu. The daily running, operations and deployment of our force have thus been seriously curtailed, as have our future plans and vision for greater efficiency. The police are unable to extend into the communities in a co-operative role because we lack the basic manpower, resources and planning capacity. We are not able to assist the chiefs and community leaders to effectively contain conflicts before they get out of their control. The Police Department questioned the reform program at the outset, as we were concerned that its application might not be conducive to the economic and political stability required of a small nation like Vanuatu.

Our main effort now is to promote community policing, especially in the rural areas, so that our people experience a real

sense of ownership over their police force and are able to address law and order problems as they arise. I have already made a brief reference to *kastom* settlement. I must nevertheless make a distinction at this point, bearing in mind that you may wish to ask me questions on the issues that I have raised in this address. On the one hand, offences under the Penal Code should continue to be dealt with by the police and must be submitted to public prosecution. On the other hand, there are certain offences that are better dealt with in our communities under the authority of the chiefs. Where communities fail to contain and resolve certain conflicts, and where the police fail to provide adequate support and advice, then minor matters can escalate quickly and become major problems. I fully agree with earlier comments that domestic violence should be dealt with severely under our existing law.