

PAAMA LEGAL CLINIC NOVEMBER 2011

BY Henzler Vira (Senior Legal Officer) & Jessica Palo (Assistant Legal Officer)



A. PRESENTATION TOPICS

a) PUBLIC SOLICITORS OFFICE

- The Office
- The staff members
- The other offices on Santo and Malekula
- Roles & Responsibilities
- Means Test and Merit Test
- Cases we deal with/don't deal with
- Civil & Criminal cases
- Office Fee



Henzler & Cyrus Willie (Area Secretary)

a) COURTS

- Courts' structure
- Jurisdiction of each court
- Court Fees
- Effect of court's decisions on parties



Henzler & Saul (Secondary school Teacher)

b) CIVIL & CRIMINAL CASES

- Criminal process (from complaint to police to sentence or nolle Prosequi/Withdrawal)
- Civil process (Letter writing to court decisions)
- Appeal of court decisions
- Limitation periods for civil & criminal cases



Jessica (Lulep)

c) CONSTITUTION

- Explanation of Supreme Power of the Constitution
- Fundamental Rights of Individuals
- Breach of Rights



Henzler (Liro)

d) FAMILY PROTECTION ACT

- Content
- Kind of protection provided
- Protection for family members
- Causes of action to obtain Protection order
- Children's Rights



Henzler, Commander Manoa Nolen & Assistant Chief of Lulep Village

e) DOMESTIC VIOLENCE

- Definition
- Who to seek help from
- Process of complain (Police - court)
- Effect of Order
- Breach of Order & consequences



Women at Vauleli

f) CHILD MAINTENANCE

- Difference with Family Maintenance
- When to apply
- Duty of parents
- Breach of order & consequences
- DNA test when fatherhood is an issue



Henzler (Vauleli)

g) CRIMINAL OFFENCES & PENALTIES

- Assault
- Rape (emphasize on SIWC/husband & wife scenario)
- Unlawful Sexual Intercourse
- Incest
- Indecent acts
- Marijuana
- Theft
- Trespass
- Threat
- Abusive language
- Animal maltreatment
- Witchcraft
- And other offences

h) WILLS & PROBATES

- Customary rules of inheritance
- Laws on Wills & Probates
- Process in court



Commander Manoa Nolen & Jimmy (Secondary School Teacher)

B. QUESTIONS

LEGAL SERVICES

People are concerned about being left out without proper legal service. Geographically, they cannot access services at Lakatoro and they request that Public Solicitors Office to at least pay visits to the island to provide assistance. They raised a concern that the magistrate alone went there but she was not fair with her decisions, even as far as using "improper" words during court sessions.

ADULTERY

Many questions arose during the clinic and in every villages people have asked advice on HUSBAND SEPERATING FROM WIFE AND LIVING WITH ANOTHER WOMAN and MAN HAVING A WIFE AND A MISTRESS CO-HABITING. In fact, there is an issue with a former MP/Minister who is sleeping with his widowed daughter-in-law while his wife was sleeping in the next house. People questioned as to whether there is a law prohibiting such act.

INDECENT ACTS BY ELDERLY ON INFANTS

People also asked advice on whether and elderly can be prosecuted for INDECENT ACTS BY ELDERLY ON INFANTS. There was no case reported but from people's comments and questions it seems as there are such cases existing in the villages.

MARIJUANA

The community leaders and elders are worried about young people consuming cannabis and any other dangerous drugs. They asked about how and when they can report someone to the police in cases of marijuana, etc.

LAND TITLES

There are land disputes on Paama Island. People were worried and they wanted advice on customary land matters. They also asked whether we can help them in land cases but unfortunately for them PSO cannot deal with such cases.

USE OF MARINE RESOURCES

There are also questions about use of marine resources in general. Whether an initiative by a person to protect a species is right?

BOUNDARY OF LANDS AT COASTAL AREAS

There were questions about boundary of lands at coastal areas, i.e. whether the boundaries include the sea. People also asked whether a person can forbid others from fishing on the reefs which are within his customary land boundaries.

PROHIBITION OF MARINE RESOURCES BY CHIEFS/LAND OWNERS

Chiefs on the Island have made several rules on how to use their marine resources. Some people were/are complying with them but others did/do not agree with them so many questions arose as to whether chiefs have the right to impose such rules.

THE HIDDEN ISLAND

There is a legend according to which an island was drowned. People questioned as to whether they can claim for customary right over the island.

DEBTS & REFUNDS

Questions arose about process through which people can claim payment of debts and refunds of money.

DISCIPLINING KIDS

When people heard about the Family Protection Act, they are worried and they wanted advice as to how they can manage their children because in our Melanesian cultures smacking children is a way to discipline them but not to hurt them. Also they worried that their children might report them to the police.

ABUSIVE LANGUAGE TOWARDS OTHERS

People asked further clarification on its meaning. How it will apply in specific circumstances. Whether jokes can result in being prosecuted if someone is not happy with them? Whether calling people by names can be defined as abusive language?

SEXUAL HARASSMENT BY FAMILY MEMBERS

There were statements made orally by members of the communities with regard to the practice of being sexually harassed by a member of the family. They did not intend to report the offenders but they said it is a practice in their societies to be the victims of such acts. They made complaints to the elders and chiefs. It seems that the practice is part of their culture, a person from the other family line doing that to a male/female of the opposite family line.

MENTAL ABUSE BY HUSBAND

Several women raised their concerns that their husbands are being cruel towards them by abusing them mentally. They requested that they need a female officer be posted in Paama so that women can go and lodge their complaints to her. They do not trust male officers as well as they are reluctant to confess their personal problems to them. They are also concerned about being treated as inferior to men and that only men can give final decisions in particular circumstances, even though they know they are wrong.

EXPLANATION OF A PUBLIC LAND/LEASE BY GOVERNMENT

People wanted more explanation as to what exactly is a public land. There were issues about the government lease at Liro so people wanted to be provided with further clarifications. People seem not to understand the right of a lessee over a leased land.

RAPE BY HUSBAND/WIFE

Listeners wanted more emphasis on this particular topic. Whether there is already a case in court involving husband/wife in a rape case? Women raised the issue of being treated as tools by husbands and they are happy to know that they are protected by the law in their own homes.

CHILD CUSTODY/ACCESS TO CHILD/CHILD MAINTENANCE

Most people are concerned about two persons having a child but not living together. They raised their concerns about how women are being unfair with men in issues of child custody or having the right to access to child. Many young boys were helping the mothers of their child by providing for necessities but then those mothers do not let them see the child. Most of the time, the decision comes from the other members of the family. It is part of our Melanesian culture that a clan has a say about a particular child but the Western Laws that we have provide otherwise. So people are confused about which one to follow and which one is the right one to comply with.

RIGHT OF MARRIAGE/ FRIENDSHIP BETWEEN BOY & GIRL

Again, our Melanesian cultures conflict with Western Laws in the right of marriage. People are concerned about how our cultures have provided for parents and elders in a clan to approve of a marriage. Some people said they agree with our cultures and some encourage the Western Laws that protect our rights. The elders especially raised concerns about rights exercised by young people in marriage cases and then they end up in divorce. Also those same rights have allowed young people to have sexual activities before getting married and it results in having many girls becoming single parents.

WITCHCRAFT

The main question raised is whether the police can prosecute people for witchcraft and whether we have people being imprisoned for witchcraft. Also they questioned whether it is right to call a meeting during which they accuse people of using black magic to harm others. The issue of defamation arose here as it is common for people to gossip about others who are suspected of performing witchcraft.

C. SUPPORT DURING LEGAL CLINIC

We wish to thank Mr. Cyrus Willie (Area Secretary) and Mr. Manoa Nolen (Commander, VMF Liro Paama) for the support they have provided to us during the awareness. We were fortunate to have the support of Commander Nolen in equipping us with raincoats during rainy days, encouraging us in complicated times and always ensuring that we were provided with things we needed.



Commander Manoa Nolen (VMF)

D. GENERAL COMMENTS

- We appreciate how the chiefs and customary land owners try to preserve their marine resources. For example, there is a rule that people must not use nets for fishing.



E. RECOMMENDATIONS

- The government to consider having a female officer, whether in the force or from the Vanuatu Women Center, in Paama to enable women to make reports.
- The government to consider the infrastructure as it affects the people, especially in cases of emergency.
- The Public Solicitors Office at Lakatoro to travel from time to time to Paama to provide legal assistance.