



PUBLIC SOLICITOR

## SOLA & GAUA LEGAL CLINIC REPORT

(03-14<sup>th</sup> August 2009)

### LEGAL CLINIC

#### SOLA

The Legal clinic was launched in Sola (Vanua Lava) on the 04<sup>th</sup> of August 2009. The main facility used was the Court House in Sola. Clients who made appointments attended but most came without appointments.

The people attending ranged from Chiefs to Government officials, small scale businessmen/ women and needy people. Students and staffs of Arep Junior Secondary School were part of the awareness and asked a lot of questions regarding the role of the Public Solicitor's Office.

It was discovered that after the awareness, more people came to the Legal Clinics.



Pic1: Chris giving advice in Sola (Police Station)



Pic 2: Chris giving advice at the Court house (sola)

The office brought its own portable Printer and a Lab-top to use for letters, applications and so forth. It has proven to be very effective. The team also brought application forms where every client details were recorded before talking about the actual matter.

Some clients attended the clinic with just questions; some had more than 5 questions. At times we would advise that they return the next day as others were waiting for their turn.

We actually took on a few new cases where we assessed that it had prospects of Legal pursuance. For others, we issued letters for notices advising the other party that a court proceeding would be instigated if they do not comply with the notices we produced.

The advices we disseminated was widely ranged but we made sure the advices were legal with practicable measures.

**Advice areas were:**

I. Debt recovery
II. Farming animal issue especially Cattles.
III. Trespassing Issues
IV. Compensations
V. Defamation inquiries
VI. Rape
VII. Murder
VIII. Witch craft Issues
IX. Court systems vs. Chiefly Systems
X. Assault – over minor issues
XI. Land Dispute/ Registration
XII. Employment Entitlements
XIII. Child Maintenance
XIV. Theft
XV. Matrimonial matters- Divorce
XVI. Domestic Violence (Restraining Order)
XVII. Protection Orders
XVIII. Firearms

The question that was mostly asked was that of Land Matters, especially claims against customary rights, purchased Land and inherited land. In Banks Island group, land is inherited through the matrilineal lineage (Female hierarchy).

Investors are big on buying land even whole Islands from natives mainly for business purposes such as copra, cocoa plantations or bungalows. Even if it means taking other natives to move people out of the land without proper or complete process example registrations of leasehold titles. Most issues mainly envelop who is the rightful receiver of the lease payments of the lands.

Land relating matters also included some lands that were purchased in good faith (Bon a fide purchasers). However, many were either sold twice or thrice creating confusions and conflicts among the buyers. We advised that owners who have resold land pay compensation or pay value of pigs to prior purchasers.

One thing that was common about all the land dealings, was that they were usually done orally with no records kept whatsoever even no declarations by the courts over the land. There was the issue of returning all land to the natives in 1980's which revoked all the land titles that were instigated prior to date.

Other questions raised were that of defamations or what was perceived to be so. On all occasions we assessed and advised that what was said did not constitute defamation. We had to make sure that people go out knowing or at least have a fair idea of what defamation meant and also advised that it would be very difficult to prove or even make a case of defamation- it's a very difficult case to proof if pursued in court.

One interesting Issue that was often addressed was that of trespassing cattles. The question usually raised here was, does one have the right to 'kill' or slaughter animals, (Cattle, pigs, chickens etc...) when the animal is not fenced by the responsible owner. If these animals cause damage or whether they are just trespassing, does the owner of the land have the right to claim for damages (compensation)? We advised that in neither occasions, the owner nor anyone, does not have the right to slaughter any animal neither trespassing nor damaging the gardens of another person. We advised that they should talk to the owners of the cattle to responsibly fence their animals and if the occasion repeats itself then the matter be taken to the chiefs. Damages can be claimed on value of the damaged goods. If the bullock was slaughtered, the owner still has the right to the meat and not the other party responsible for slaughtering.

Debt recovery was a matter that was addressed with concerned shop owners (Retails) over outstanding debts and failing notices that they'd give out without successfully recovering their money. We managed to draft letters requesting payments without delay, or court proceedings be brought against them.

Child maintenance was an issue that was affecting a lot of young girls/women there. Usually the boy's responsible (fathers) flee to either Vila or Santo or some other Islands to avoid responsibility. The Island Court Clerk expressed great difficulties reaching them and thus usually these issues go unattended for a long time. However, for the few cases that we attended to during the clinic, most fathers were either in Vila or Santo thus we took instructions and advised that orders will be served on the fathers responsible and also for the mothers to create NBV accounts in Sola to enable the payments via the account.

We encountered DV (domestic violence) report which has been going on for some time. We managed to take in the victim and taken instruction which we then applied for a restraining order-without any fee. We called the Magistrates in Santo and got an order via telephone and got the Police to serve the document to the accused. There was a little commotion over the issue but was well handled and she managed to go home safely.

Matrimonial matters- Divorce application we prepared on the basis of desertion by the wife. We got all the instructions and prepared all the documents however the petitioner had to take the boat ride back to Mota Lava. We advised that he return to Sola when convenient and sign under oath with Island Court Clerk. They would have to send the documents to be filed in Vila Magistrate court when the petitioner arrives as the wife currently resides in Vila. Thus, that is the how this issue has been handled and is still in progress.

One interesting issue that was raised in Gaua, we encountered a case where a village court found a person guilty of using witchcraft against a young lad believed to have caused death. It was very interesting because the chiefs have given out a fine against the alleged and even gave him a time frame to appeal. We discovered later that the deceased was actually very sick with epilepsy and wrote to the chiefs about having the matter reviewed. We targeted the imposed fines for them to be withdrawn since the possible cause of death was the illness.

The Employment matters were that of unpaid entitlements and we issued letters to responsible offices and people, requesting payments with delay.

There was one issue of theft, which 6 boys were involved. The question was could they be prosecuted as minors? That question was not attended to as the Prosecution did not lay any charges against them instead sent them home with strong warnings. We advised that if that happened again, the chiefs should be consulted before the taking the court option.

Other areas of advice covered minor issues and letters were issued to people concerned. Other matters that could be handled by the chiefs were directed to them and advised that these avenues should be utilized before resorting to the court systems. Court should be the last resort as it will be a long process, time consuming, more money spent and more frustrating. The Chiefly system is more preferable and would take less time and less money spent and always available.

<b>SOLA LEGAL CLINIC (2009)</b>	
04th August- (1st day)	6 Clients
05th August- (2nd day)	4 Clients
06th August - (3rd day)	3 Clients
07th August- (4th day)	3 Clients
<b>GAUA LEGAL CLINIC (2009)</b>	
11th August- (1st day)	5 Clients
12th August- (2nd day)	5 Clients
13th August- (3rd day)	7 Clients
14th August- (4th day)	2 Clients
<b>Total No. of Clients</b>	<b>35 Clients</b>

## AWARENESS

One of the Highlights during the Clinic was the awareness- I thought it was a ground breaking experience as it is the first time people actually hear of the roles and functions of the PS office. It is usually after the awareness that a lot more people attend the clinic.

During the Awareness, students and others had a lot of questions on the 'Means Test' and if the PS could exert more discretion on the people who earn salaries between **50,000VT** and **60,000VT**.

Other questions during the awareness were of child maintenance. In Gaua, Chiefs were very keen on asking questions to help them make fair and just decisions in their Village Courts and Area Council Courts.

Even some of the chiefs took time to seek advice on how to handle specific matters such as land, cattle, child maintenance and various other issues.



The chiefs are currently playing a vital task protecting the law within the Islands of Banks ensuring peace, harmony, respect and honor within the community.

The PSO in its advices promoted the chiefly system as the first resort to any issues other than serious criminal offences.

One area that needs consideration is the enforcement body in Torba. Firstly, there is no Prison House to keep prisoners, instead they are taken home (Police residents) until their cases are heard.

There are only 3 police officers in the whole of Torba Province- obviously they cannot attend to other cases in outer islands other than Sola. It's a difficult situation when it comes to enforcing judgments, serving documents to parties concerned, especially when they are residing in outer Islands of Torba.

## Accommodation

In Sola, we were accommodated by the ELIZIER BANGALOWS owned by Mr. Abraham and his wife Mrs. Doreen Eldads. The fee is VT2, 500 per night. Break-fast, Lunch and Dinner is served.

Electricity is provided every 6pm – 9:30pm every night. There is a telephone at the Bungalow. The Bungalows are situated on the corals near the sea.

It is a 5-7minutes walk to and from sola main town and a 2 minutes drive.



In Gaua, we were accommodated at the 'WONGRASS BUNGALOWS', where Mr. Charles Bice and his wife Mrs. Angela Bice took care of us.

It is a VT2, 500 rents per night inclusive of Breakfast, Lunch and Dinner serves.

The telephone number is 38504. Electricity is powered by the solar Panel thus depends mostly on the weather.

The Bungalows main kitchen was used for the clinic during our stay in Gaua.



## ORGANISATION

Since this is the first Legal Clinic organized, it would be more appropriate to scope the strengths and weaknesses of the organization. Thus, these are the strengths and weaknesses of the organization.

### Strengths:

- The strengths of the organization were that we had sent posters a month before the actual time for the clinic.
- People were informed at least a month before the actual clinic
- There was an available facility to host the Legal Clinic (Sola Court house).



- There is a full time Island clerk who assisted us all throughout the week of clinic (Mrs. Evelyn Hopkins).
- The Police were very helpful in enforcing some of the orders we obtained in Sola without much difficulty. Full time Police Office operating in Sola.



- Good preparation-Lap-top & Printer for letters, Papers, Note Pads, Pens
- Brochures and application forms were ready for details of each clients

## Weaknesses

- The posters were sent a bit too late, maybe 2months notice would have prepared the people more to attend.
- People are not used to making appointments-or don't know how to make one at all.
- Accessibility was a problem since the other Islands are too far. The geographic locations of the Islands did not allow much access to people residing furthest from the Sola and Gaua e.g.Mota, Mota Lava, Mari, Mere lava Ureparapara and even the Torres Islands
- The contact person should have been Evelyn Hopkins since she had good contacts with the other Island courts. This was not utilized properly.
- Transport for outer Islanders is very expensive (18, 0000- 20,000VT +) and usually take 1-2 hours reaching the Legal Clinic venue.
- People did not understand who or what the PUBSOL does and so do not bother to even come.
- Travelling means can only be by boat which is very expensive; planes depending on the weather may not come since the airstrips are usually flooded or need mowing. The weather is unpredictable.
- No Telephone communications- still awaiting TVL people to fix lines, therefore we cannot contact Vila nor Santo lawyers to query about some cases.

## **Recommendations**

*These are few of the recommendations that should be considered for next clinic tour.*

- That next time, it would be more preferable if we moved from one station to another as it would cover large proportion of population who were left out during this first tour.
- That awareness be made 1-2months before the actual clinic tour
- Awareness about the clinic should also be made via Radio Vanuatu
- When touring the Banks, to take more money for expenses especially transport fares.

The Legal Clinic was very successful and a start of services that must be provided to the needy people not only to Santo and Vila but to outer Islands of Vanuatu.