



Yumi Save Stopem Korapsen!

A weekly column on Good Governance, Accountability, Transparency and Responsibility with a view to eliminating Corruption

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La corruption rend un pays pauvre!
Agissons contre la corruption!

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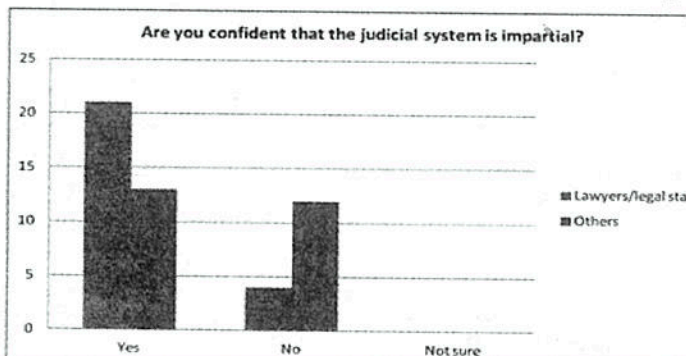
NIS Project Update: Judiciary

AT LAST WEEK'S COURT opening the Chief Justice spoke about how "the Judiciary must be independent and worthy of the public's trust and confidence... [it] must be seen to be of the utmost competence and integrity by the people". Transparency Vanuatu agrees. Previous NIS reports have found that Vanuatu's judicial system is generally respected as being impartial, independent and fair recent review of the Vanuatu judiciary by the Pacific Judicial Development Programme (PJDP) also found that the judiciary 'is regarded highly as fair, independent and of integrity', despite facing sometimes severe resource constraints.

A recent street survey suggests that whilst lawyers have considerable trust in the impartiality of the judiciary, the "man and woman on the street" has less trust. The survey asked 25 people on the street (13 men and 12 women) ranging in age from 19 - 47 and 25 lawyers and legal office staff (13 men and 12 women ranging in age from 19 - 44) if they were confident that the judiciary is impartial.

The Vanuatu Judicial Monitoring Survey Report (VJMS) released by Transparency Vanuatu in November 2013 indicates that one major problem is the delay in releasing judgements. A number of cases that had completed trial and were pending a decision were reported to the VJMS research team. As of June 2013 the length of delay in issuing decisions following hearings on the cases reported to the VJMS research team ranged from 9 months to 14 years and 4 months, with the average delay being 4 years and 7 months. Whilst the court is to be commended for recently instituted procedures for the handling of cases which has significantly improved new case management for those with outstanding pending decisions there is no justice. Until the issue of outstanding decisions is resolved confidence is likely to remain low.

The 2014 NIS assessment of the judiciary also suggests



A further street survey is being conducted to find out if results will change if we ask a larger sample or why the public has considerably less trust in the judiciary than regular court users. The follow up survey will help us to develop recommendations for measures to build public trust in the judiciary. We also welcome direct public comments on either you think the judiciary is impartial and what you think can be done to improve public trust in the judiciary - contact Transparency Vanuatu on 25715 or 29008 and ask to speak to a NIS researcher.

that there are a number of law reforms that could be taken to further improve public trust and confidence in the independence of the judiciary. A concern is that there is an absence of integrity mechanisms in law for the judiciary. In examining what integrity mechanisms exist Transparency International asks countries to consider:

- Are judges required to disclose their assets and make them available to a Judicial Appointments Commission or another appropriate body?;
- How comprehensive is the Code of Conduct, if it exists?;
- Are there regulations preventing judges from receiving reimbursements, compensation and honoraria in connection with privately sponsored trips?;
- Are there regulations governing conflicts of interest for the judiciary?;
- Are there regulations governing gifts and hospitality for the judiciary?;
- Are there restrictions for judges entering the private or public sector after leaving the government?

In Vanuatu judges are not leaders for the purposes of the Leadership Code Act [Cap 240]. They are not required to make asset dis-

closures or annual returns under this Act. Nor are they required to make asset disclosures to the Judicial Service Commission. There are no regulations preventing judges from receiving reimbursements, compensation or honoraria in respect of privately sponsored trips, or regulations governing the hospitality and gifts.

Whilst judges are prohibited from engaging in any paid work outside of the duties of their judicial offices without the consent of the Judicial Services Commission there are no post-employment restrictions of judges.

Despite the absence of laws there are some instances of members of the judiciary self regulating to ensure integrity. Vanuatu's judiciary appears to be very conscious of the need to be seen to maintain professional distance, and self-regulates to maintain integrity. A recent example occurred in 2013, when former Minister of Health Don Ken invited court personnel to kava prior to a decision involving the prosecution of some of Ken's supporters being given. This kava evening would have given Ken the opportunity to talk with the Chief Justice. The Chief Justice required Ken

to apologise in open court and also made it clear that any future attempt to influence the court would result in imprisonment.

Having a clear set of rules will help to strengthen the judiciary's self-regulation activities and many of the recommendations in the NIS discussion paper on the judiciary focus on strengthening integrity mechanisms. Recommendations include that:

- A Code of Conduct, based on the Bangalore Principles of Judicial Conduct, should be introduced.
- A similar Code of Conduct for court staff should also be considered.
- Registers for gifts and hospitality should be introduced.
- Judicial and court officers should be required to provide annual returns in accordance with the Leadership Code Act.

Public comments on the NIS discussion papers are invited. To view all current discussion papers (including judiciary, ombudsman, auditor general, electoral management body, foundations of Vanuatu society, media) please go to the NIS project page on the Transparency Vanuatu website <http://www.transparencyvanuatu.org/index.php?page=national-integrity-system-project>

Malapoa residents rally with advice from ALAC to remove concrete and steel rubble dumped along road reserve Fatumaru Bay

THE CONCRETE BEAMS AND columns and other building rubble that was illegally dumped along the scenic Malapoa coastline of Fatumaru Bay has been removed following the lobbying of residents and the ALAC office.

The law is clear. No person, even if he or she is the landowner, can breach the Environment and Management Act by dumping waste materials. This was a shocking act that appalled the people of Port Vila when it was originally reported. The local residents should never have been subjected to this.

In August last year 2013, the Advocacy and Legal Advice Centre (ALAC VANUATU) a project of Transparency Vanuatu received a complaint from residents of Malapoa area about the dumping of waste on this coastline, a blatant breach of our planning and environmental protection legislation. It was also an insult to our planning authorities that the people responsible for this unlawful conduct should feel free to do it.

The residents were understandably extremely concerned that such materials (concrete dust and rubble, rusty reinforcing steel bars that were sticking out of the concrete chunks, were not just unsightly but were also dangerous to children and pets.

The coastal area of Fatumaru Bay is popular in Port Vila for recreational and other social activities such as picnicking, snorkeling, fishing and swimming by local residents of Port Vila and in particular the residents of Malapoa.

The effects of such dumping of these building demolition materials would likely pollute the bay and create potentially hazardous circumstances for locals.

For that reason the residents submitted a letter to the

Department of Environment Protection and Conservation voicing their concerns that there had been no public consultation and no approval from any authority for the waste materials to be dumped in this area.

The residents requested that the Department of Environment Protection and Conservation immediately put a stop to the dumping and have it removed from the site until a full EIA and public consultation was completed. ALAC Vanuatu followed up the residents' letter to the Department of Environment Protection and Conservation with their own letter outlining the environment concerns and requesting that the Environment Unit should inspect the site and prohibit such dumping of waste materials.

Last week the ALAC Vanuatu office contacted a representative of the residents of Malapoa and was informed that the dumped waste materials had been removed from the area concerned following the intervention of both the residents and Transparency Vanuatu (ALAC) who had brought that matter to the attention of the authorities

ALAC Vanuatu appreciates and applauds the assistance of the Environment Officers from the Department of Environment Protection and Conservation in addressing this important matter that understandably upset and worried the neighbourhood residents.

The laws exist to protect our environment and to ensure the safety of our people. We urge all citizens to respect these laws and to work together with the relevant authorities to help create a better Vanuatu.

>>>The ideas and opinions expressed in this article are those of the writer and are not necessarily those of the Vanuatu Daily Post

Solomons Government called to explain Moti settlement

TRANSPARENCY SOLOMON Islands says former AG has lodged no claims against government

WELLINGTON, New Zealand (Radio New Zealand International, Feb. 4, 2014) - Transparency Solomon Islands (TSI) is asking the government to explain to the public

Julian Moti was the Solomon Islands Attorney General between 2006 and 2007, but was deported to Australia at the end of 2007 to face child sex charges.

However, the Australian High Court ordered a stay of charges in 2011 after it ruled he had been illegally deported,

from Transparency Solomon Islands says it's believed Mr Moti hasn't lodged a claim against the government, so it's unclear why the government is rushing to settle.

"The onus has to be put on Moti to establish the basis of why the government should pay, and there may not be a

government has plenty more priorities, pressing matters here on the Solomon Islands fund than paying the possibly large amount of money to Moti, for no basis."

Bob Pollard says this has been a long, on-going saga, but the government is mixing legal and political issues, and

