

Environmental Law Centre (ELC) Review

Nancy Sullivan and Associates, commissioned by Rainforest Foundation Norway

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Diana Mewerimbe LLB (arrived 2006)

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Environmental Law Centre (ELC) Program Staff:

David Warpuai—Community Log Coordinator

ELC Administration and Finance:

Donald Gideon—Accounts (arrived 2006)

Gary Iga—Administration Officer

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I. EXECUTIVE SUMMARY

Following the terms of reference (TOR) for this evaluation, we have looked at ELC's three main areas of work: Legal, Policy, and Training and Monitoring (which we cluster with Education and Awareness).

Our objective, following the TOR, to “to document and learn from past and current activities, processes and achievements of ELC, and in so doing:

- assist ELC to check effectiveness, efficiency, effect, relevance and sustainability of their current programs with the local communities including project management systems and relationships with donors, partners and stakeholders
- identify issues and suggest steps for further improvement and specifically to identify areas for strengthening and improvement as the project/the organisation moves into the next phase”

Our findings begin with the primary observation that ELC works very hard for the amount of progress it makes. Cases are stalled by an overworked and clogged court system, which means clients are unilaterally disappointed; and, not incidentally, ELC lawyers (aka PIEL lawyers) get little chance to litigate.

From what we have gleaned, the ELC awareness campaigns have been extremely effective. No one would argue that making landowners aware of their rights, their options, and the consequences of their choices, is ever unnecessary. In most cases these campaigns cultivate new law suits, and we understand that there is a balance between how much awareness can be offered and the capacity limit to PIEL's caseload. But it is the idea of litigation---the awareness that one can take a company or the government to court---that has been most successful thus far.

There are many reasons for this. The first is the insufferably slow pace of the courts in PNG. Even if and when the lawyers have filed on time, the most effective defense tactic seems to be finding objections and technicalities that can further derail the case. Whether or not the opposition law firms are better strategists is not for us to say, but it does appear the legal strategising is the necessary skill for litigators of environmental law. The ways and means of avoiding, by passing, anticipating and second-guessing the other side is a winning skill.

It may be that lack of courtroom practice has kept ELC from cultivating this skill. A general consensus of interested observers agrees that PIEL need more litigation experience. We are in no way qualified to review ELC's legal skills, or even its case histories. But we suggest that ELC investigate the possibility of having the Environmental Defenders Office in Sydney perform a legal assessment, and that this be part of an ongoing monitoring process in the future. Perhaps a fellowship can be established whereby PIEL lawyers rotate visitations with EDO, where they can gain the litigation experience not possible in PNG right now.

We acknowledge that Mary Theresa Boni is a highly experienced Public Prosecutor, and her experience is withering on the vine as ELC cases keep getting postponed and dismissed on technicalities. Nothing much has changed for their major cases in the last two years---and that is tragic. Coupled with the poor communication between the field sites and the office, the danger seems to be a growing client indifference, and

frustration. The result is a growing vulnerability to loggers, as people on the ground get edged closer to capitulation. We would argue that the ELC has excellent support from Sanduan communities, very good support in Western Province, but some indifference (along with support) in Madang. A potential pollution case in that province will make a great difference in the public perception of landowner rights (and landowner power), and is something we would hope to see.

The three-dimensional nature of ELC's work may be hampering its progress on two planes: the legal and the policy work. Were the courts responsive, and the work of networking toward policy change less urgent for PNG, this triumvirate approach would be the best way forward. But nothing is moving fast enough at present. And because education/awareness has been the most successful, we may assume it is also the one closest to being transferred, to being spun off to the hands of local CBOs and community fieldworkers. It is an expensive and time-consuming logistical component, and perhaps the one most likely to thrive on its own, with more long-distance oversight.

Our concept here would be to winnow down the goals of ELC to concentrate its skills, its economic resources, and produce quicker outputs. This in turn can attract more or better donor funding, and allow the more focused work to expand---that is, allow the Centre to hire more litigators and policy lawyers.

Please keep mind that any suggestions we make here are blind to the financial constraints, and represent best case scenarios only.

Our assessment boils down to:

- Litigation must be improved: we suggest contacting the EDO for a legal review, and then creating an exchange program for staff lawyers.

Sarah reported that the EDO

“Recently [EDO] had a newly employed Programs Manager, she came in and she met and us and basically just to familiarize herself with their partners here in PNG.”

This relationship must be enhanced.

- Training, Monitoring, Education and Awareness programs are important, but they may be draining the litigation arm of ELC. As a Law Centre, the first responsibility must be to the legal work. Education and Awareness does not have to come from lawyers or even forestry officers for it to be effective. Training and monitoring, in time, may also be transferred to other qualified field workers. We suggest farming all these services out to other NGOs or CBOs based in the target communities. Professional field workers already exist within Bismark Ramu Group and WWF, and community activists in SANCORDEF, among other local-level organizations, can be trained up over time.

In 2007 seven workshops were conducted (six in Sandaun, and one in Western), but in 2008, none were carried out. This inconsistency already makes it hard to maintain a level of skills transference. As local field workers could be tasked with

training and follow up, an potentially more effective and sustainable communication would result. It would also, not incidentally, keep a lid on the inflated expectations of landowner communities, who see ELC trainers come in and assume a court case will eventuate.

We understand that Training of Trainers (TOT) workshops have already occurred on some sites for Community Log Monitoring, and we assume that handing this responsibility over has already begun. Possibly recruiting the best TOT graduates from Western Province and bringing them in to run TOT courses in new field sites would complete the hand-over. Nehemiah and David could be very effective in Port Moresby overseeing these field workers and at the same time find more time to focus on policy and national-level campaign work.

- Communication is a pressing issue. In Annie's words, "It's a problem communicating with the clients. For example, if they are in Bosavi, we have no way of communicating, unless we can get through the radio systems, and that's the existing radio station like ECPNG [Evangelical Church of PNG]. It's not always private when talking with the clients on legal issues. The only way is sending letters by someone travelling to that particular village. Also if we were going to have our own radio network set up we need to have technical personnel who can be available to fix any problems that arises in the network. Otherwise, for clients who have access to telephone or email, we don't have problems, it's [with] those remote communities that we are having problems in communicating."

The shift away from direct training and awareness in the field can only be accomplished with the help of a CB radio network. It is technically challenging (and requires more training, but not necessarily more staff), but in the long run can save time and money. A radio can get to sites where fieldworkers cannot, and because the ELC mandate is to work in some of the most remote, inaccessible sites of PNG, it is counter-productive to allow this work to be restricted by physical access to these communities---especially when this so often requires expensive helicopters and/or wide-open calendars. It may be that Digicel will reduce some of the remoteness in the next few years, but nothing is as reliable or sustainable as a car-battery operated CB radio system. Trans Niugini Tours, based in Mt Hagen, has been running its remote lodges in the Karawari River (East Sepik), Tari (Southern Highlands, Malolo (Madang), Rondon Ridge (Western Highlands) and Bensbach (Western) by CB radios for almost 40 years. Not perfect, it is nevertheless a means of constant communication between all these sites and their offices in Mt. Hagen. [Their contact is www.pngtours.com, and 542 1438---talk to Bob or Pam Bates].

- Policy is the third aspect of the ELC's mandate. This year has been a very successful year for ELC's policy work, as Sarah Tsiamalili produced a very impressive workshop on an Independent Commission Against Corruption (ICAC) for PNG in October. This workshop brought together major players from government and non-governmental agencies in one of the first few discussions of how to create an anti-corruption commission for PNG. Sarah is now working with Dr Eric Kwa (who heads the Human Rights Centre at UPNG) on the 1997 Anti-Corruption Bill drafted by Peter Donigi and Sir Barry Holloway.

Annie's Goldman Prize catapulted the ELC into international policy debate circles, and there is no underestimating how important this can be for PNG's future. She has been involved in lobbying the LACY Act in the US; lobbying the Governments of Japan and China; and speaking in behalf of Greenpeace for the CR Club. Mary has also represented the ELC in Fiji, and Sarah has represented the ELC in Sydney. These are investments in the country's conservation visibility, and we strongly suggest ELC focus on maintaining the international contacts and profiles they have established.

- One way to effect this continued exposure is to reassign Sarah to be should be a policy lawyer exclusively. This is her strength and her ambition. Ideally, PIEL might bring aboard another litigator to help fill the hole, who, along with Nehemiah, might concentrate on Constitutional Law.
- The office also needs a Program Manager. This must be someone who understands the constraints of the lawyers, and their needs. The systems and compliance procedures need to be improved or better-enforced, but not at the cost of antagonising the healthy workplace relationships that now exist.

Sarah told us, "We have good relationships with the administration. There are some issues concerning the urgency of lawyers' work. They still need to understand how urgent it is and they mustn't be so relaxed about it, especially when things need to be filed on time. The boys need to be more aware of the priorities ...[to] put lawyers' work first."

It seems to us that a Program Manager, working with the administrative staff, could be the best bridge between the lawyers and the administrators. A good Program Manager would, in effect, manage both staff bodies. We understand that a former Program Manager was unsuccessful because his role was poorly defined, and some say he refused to take direction. The answer would be to clearly define a PM's role. We imagine it to include a majority of the donor communication Annie now maintains, along with some report writing. This would relieve Annie of her more bureaucratic responsibilities. Recruit someone who is capable not only of taking over these routine tasks, but of taking them unto his or her self, as personal responsibilities. The difference between a functioning and an excellent Program Manager will be his or her assertiveness in the face of the two Principal Lawyers. When necessary, he or she must take a leading role in office matters, with a clear understanding that this is not a challenge to the Principal Lawyers' authority. Take the time to find someone who can work well with the staff.

- We absolutely agree with Annie's suggestion to us that the office staff be given a Management Training Course. Having the lawyers act as managers may be useful, but it is also a waste of human resources.
- Much the same argument can be made for having the Principal Lawyer act as Board CEO. Undoubtedly this is an improvement over what had previously existed, and we acknowledge that Annie prefers it this way. But in the interest of shaking up the legal sector of ELC's work, it may be that her skills are better concentrated on courtroom and policy work.

Having solved the major staff problems from prior to 2006, and constructed a contented workplace setting, Annie deserves to concentrate on her real skills as a lawyer. “At the moment I’m responsible for planning, call[ing] everybody together, proposal writing, report writing, litigating, managing,” Annie told us. “But I’ve limited myself now to only one case, simply because most of my time is taken up doing management and fundraising for the organisation. So that’s why I basically left Mary to deal with the lawyers.”

- Finally, we can only comment superficially on ELC finances. Hire an accountant.

Without more of the financial reports to draw from, we can only comment on a 2005 Cozmo Accounting report, and discussions with Donald and others. Annie told us that one of the office problems is having everyone aware of the donor budgets and obligations. In the end, only she takes 'ownership' of the conflicts that always arise between what the lawyers need and what the budgets allow. Donald told us that he finds the management effective for being strict, but he did not imply that he has ever made an executive decision in the face of budgetary conflicts. Staff is always afraid to take control of their domain, and in PNG this is a chronic problem. (A good management training course for everyone in the office might clarify the roles of each staffer, and also underscore the importance of being assertive.) It seems clear that Annie needs someone to be assertively responsible for office management, including donor reports, as well as having budgetary oversight. This would free her time up for the work that really matters. Our suggestion would be that, in hiring both a Program Manager and an Accountant, that both be given very specific job outlines, and be recruited on the basis of their ability to make decisions, and not defer to others.

This also involves maintaining good communication with the donors. Annie explained to us that, “We have no problems with RFN; they visit and talk with us more regularly, unlike ICCO. We have a problem communicating with ICCO, and I’m not sure, but we seriously have a problem with ICCO when it comes to communicating. I think they have realised that, and we’ve also raised it with them, in that they are not communicating with us as we should be, regularly. And so they have developed a working paper to come up, in improving communication for all NGO’s, not just ELC. It’s just a matter of reporting that we need to improve on. If you report and the donors are happy, they send you the money, and [you are] able to maintain that relationship.”

Donald could work closely with the Accounts Manager, as the MYOB specialist, and the Accounts Manager could focus on fundraising while overseeing the MYOB records. In turn, he or she could work with the Program Manager to produce ongoing records according to the LFA. Together the Accounts Manager and Program Manager should call weekly staff meetings. Only in this way can everyone understand the idea of a unified purpose and be reminded of court deadlines and budgetary targets.

- Maintain office-wide weekly meetings. “We need to have more staff meetings,” Sarah told us, “where everyone is open to openly saying what they are unhappy about. If there are things happening they feel should be changed or if there are decisions that need to be made, [they] should be made as a unified organization. I

found that there have been decisions that have been made by management or just one person. The implications of those decisions are on everybody so everybody needs to be involved. It's not fair to make decisions on your own and exclude everyone if those decisions are going to affect everyone....You want to feel as though you are involved in the organization not just sidelined."

By contrast, Nehemiah told us that the lawyers have their own weekly meetings. "For us lawyers," he said, "we don't have appraisals but we do have staff meetings every week, so we have to give progressive reports for every case. Annie and Mary monitor what we are doing; at least we have to give a progressive report for each week."

In PNG, it is all too common for staff to be reliant on one boss, and to defer all significant decisions to him or her. The problem becomes that centralisation feeds on itself, and people take fewer and fewer responsibilities when someone else is making decisions, and that someone grows weary of the responsibility, becomes frustrated, and either leaves or implodes. The entire project comes to a screeching halt and, more often than not, can never be revived.

Management Trainers in PNG therefore talk a lot about shared responsibilities and clear job definitions. This prevents passing the buck, and spares backbiting blame when something goes wrong. Staffers work best when they are acknowledged at staff meetings for taking control of their corner of the project, getting their tasks completed on time, going the extra mile to see the deadlines get met, or taking pride in their simplest routines. And the more the staff knows about everyone's boundaries, the more accountable they are to each other. When and if the boss falls sick, or is away from the desk, the mechanism continues to operate. In the case of the ELC, presumably a strong Program Manager or even Accounts Manager can step in and keep things ticking without anyone fearing a palace coup has taken place. In the end, everyone should feel their work is crucial to the overall success of this very important institution, the Environmental Law Centre.

Annie told us, "We don't [have a workplace policy] because...one of the things which I considered during the reform is...run several in-house trainings for the staff just to up-date them on issues and keep them posted all the time, and explain to them why it is important for them to do this. Little things; a small in-house training on probably climate change, example, what is the Kyoto Protocol? What does it say? So that it gives them some kind of background and appreciation of what the organisation is and how we should play that role."

In effect, our recommendations are to focus on litigation above all else, and to expand the staff. The staff who wear multiple hats should slowly pare down to one single role at which he or she may excel. Nancy says this as someone who also wears many hats herself, and who wishes she could wear but one--and do that well. If out-sourcing the education and awareness responsibilities of ELC does not compromise funding streams, then money might be preserved for hiring a Program Officer and an Accountant.

IA. Interview Excerpts

Annie: “My job is basically, well I wear two hats. One, is I do the general running of the organisation overlooking the administrative of the finance, the programs; so that simply means in terms of fundraising of the organisation, I do; attending to staff queries; making sure our reports are done on time to the donors, our accounts are in order. I also play the diplomatic role for the organisation representing E.L.C in all relevant stakeholders meetings.

“The other job is, I do the strategic planning for the lawyers on the cases that we work on, so I decide which cases should be run by the organisation. I supervise the lawyers, although Mary is in charge of litigation. When Mary is unable to attend, I play the role supervising the lawyers and as well as mentoring them. I play a back-up role; if the lawyers are unable to attend to some of their cases then I sign in their place...

“To be honest I don’t want to be a manager. I like lawyering. The only problem is that it is a legal organisation and its basically how the lawyers run the work here, and also because, based on experience, in the past there have being problems with somebody who is not a lawyer managing the organisation, because you have that friction among the lawyers and a non-lawyer. So it’s being quite difficult, I mean it’s also difficult for me to manage because, as I’ve said, I don’t like managing. I’d rather do the litigation work and do the lawyering work.

“We tried getting a non-lawyer to manage the organisation; that resulted in conflict, and we’ve had a lawyer managed the organisation previously-- that also had problems because they could not get along with other staffs. And I’ve come along, and I’m able to balance myself between the both, but I don’t like managing; I can tell you that. It’s one of the things we have difficulties in. I feel that now I’m also in this position its probably best that we have somebody like a Program Manager or somebody whose able to play that role to assist me, so that that person can deal with the donors and deal with fundraising and deal with other issues ,while I play the strict lawyering, diplomatic figure...

“[M]y problem is this if we are going to employ a Program Manager, we can’t just have a Program Manager that’s basically going to sit here. Let me talk about the experiences that we have previously: we had a Program Manager who was basically doing the job of the trainer or coordinator. I found that the duties and responsibilities were not clearly defined. And so we have the Program Manager doing the work of the trainers and coordinators and com log monitor. So weve got to clearly define the role of that person, who’s going to be of assistance.

“We’ve got Lester now, as a technical assistant. He is basically mentoring me at the same time, because there are some issues that I get frustrated with. And because of his experience with other donors and working for another NGO, he sort of releases some of the burden on me. That’s kind of working, but we need somebody there who can say okay I will deal with the donors, I will deal with everyday quires, do the reporting for them. We need somebody there who can run the show so long as that person has a thorough understanding of the nature [of a] lawyers’ work, and who’s got to work with lawyers without creating any tensions.

“It can be quite frustrating working with the lawyers, because they want their things done, and our obligation as lawyers is basically to the courts and to the clients. And so the lawyers don’t really interact necessary very well with other people. If they want to file a court document, that has an impact on us, and our program and admin people are running around doing other things-- then we can be held negligent in our duties. So it’s finding that balance.

“And I’ve also be thinking that we need some cultural or value training so that people are going to understand each and everyone’s own nature what they are here for...I’ve actually spoke to Barry Lally from BRG to see if he could do some training with the staff, just to get them to understand and work with each other, because I saw the gap that our program and admin staff don’t really understand our lawyers roles and responsibilities, and how they function. Any delay that they have will affect us and also result in costs against the clients. It’s being slow at the moment, but slowly people are beginning to understand.

“Sometimes I feel [I am overworked] when it comes to decisions which can be made easily, be responsible staff officers, and they still can’t make those decisions, its like they all rely on me when its within their prerogative, without having to run to me all the time. Because it ties me down, and I shouldn’t be worried about very minor things. For example, we have the senior lawyer there, she should be able to make decisions when it comes to issues about the cases, or are we going to bring in experts. It’s her prerogative [to] make the decision, and I’ll come by it. Unless it’s an administrative issue, unless it’s the money issue, and she needs to coordinate the lawyers, and they should be reporting to her because she is the senior lawyer. I don’t have problems with the program and admin...

“At the moment I’m responsible for planning, call[ing] everybody together, proposal writing, report writing, litigating, managing. But I’ve limited myself now to only one case, simply because most of my time is taken up doing management and fundraising for the organisation. So that’s why I basically left Mary to deal with the lawyers. If it were...an ideal organisation, I would have it run that way, in that I would basically manage and have Mary look after the lawyers, because the programs are related to what the lawyers do.

“The Com Log Monitoring is basically related to the lawyers work, because [they] have to go and do their training that requires the lawyers to be there. It’s all interrelated, and it’s easier for Mary to take on litigation in itself. But for the programs, or the community legal education, and the com log monitoring, I can take care of that.

“[Mary] doesn’t have the experience, she hasn’t managed before. It’s actually a new area for her, and so she’s still quite reluctant yet to take on some of those serious issues, generally management issues. I don’t know how to give her that experience, but she needs that experience to boost her around, so that she can make other decisions as a manager. She is part of the management team; she plays an important role within the organisation, so I’m thinking that she needs to take some basic management and administration training. She has no problem being a lawyer, she’s a fine lawyer.

“I try, myself, to at least tell everyone on what’s going on; if I do receive e-mails and obviously I do circulate it, and I try to get staff participation or involvement, and I send it to them, in the hope that they do understand what’s going on. Unless, obviously, its a management thing, which I have to deal with, or if I have to go to meetings with EFF, I attend those meetings but I come back and try to inform the staff, give them a summary of what has happened and how we all suppose to be working together outside of ELC.”

David: “I’ve being the organisation since September 2004, so it’s my fourth year in ELC. Environmental Law Centre was started in 1999 by Brian Brunton and I with assistance from his late wife. It was under ICRAF, and in 1999 ELC was registered as a company. “When Oscar Inai vacated this position in 2004, they advertised it, and I applied for it. Back then the organisation wasn’t really steady or progressing well. Then in March 2005 the Program Manager suddenly left, which led us into a brick wall and we didn’t know what to do as he was looking after the program components of the organisation. Then the previous lawyers started leaving one by one. Also our accounts were not up-to-date because of filing problems. Most of the lawyers left after the Program Manager left, throughout the year. I think the main cause was that there wasn’t a proper management of the accounts and this caused our major donors to halt the funds from coming in, [so] this ...affected everyone down the line. The other big problem was the working relationships between the lawyers themselves.

“Once [the Program Manager] left we become stagnant. A new Program Manager came on board in August 2005 and we picked up from where we left. The new Program Manager was Mr Steven Sogot who left on August 2007. It seemed that he didn’t want to be dictated to. When we’d make decision he didn’t want the management to question him, which didn’t work out.

“ From experience, [the] situation from present compared to when I first started in the organisation from 2005, 2006, 2007 I’d say is very professional, very open, and communication with other staff is probably [at] an all time high. Normally, the lawyers keep to themselves, but it’s open and I think it’s healthy for the organisation.

“Maybe there’s some issues where the general staff are not properly informed of some decisions made by the management and were not attended to. When changes comes about then something comes up and they would say we don’t know about it. I think a more open relation between the staff and management would resolve some of this.”

Sarah: “With donors [our relationship]is good. We constantly have emails from Rune, from RFN. He updates us on things. If there are reports that need to be handed in he emails and says...we need to have this done, or if there [are] any changes to [the] reporting system or if there is something that is happening there, he emails everyone to let us now. So I think that’s really good. But we have to make sure that whatever comes in from them is recorded, is filed and is discussed [amongst us] staff, so that we know this is what our donors expects from us. So everyone has to help toward providing reports or whatever is in their capacity to meet the donor requirements.

“Everyone is open. All the lawyers converse with one other. If there is an issue, we sit down together and sort it out, especially our legal issues, like cases. We openly talk

about it amongst ourselves. We have meetings. We try to have regular lawyers' meetings but it hasn't been happening a lot recently because I think the boss has been quite busy. Also the senior lawyer's busy with these cases coming up. I think we should maintain that, constantly have lawyers' meeting every month to update ourselves of what's happening, and also staff meetings as well."

"We need to have more staff meetings where everyone is open to openly saying what they are unhappy about. If there are things happening they feel should be changed or if there are decisions that need to be made, [they] should be made as a unified organization. I found that there have been decisions that have been made by management or just one person. The implications of those decisions are on everybody so everybody needs to be involved. It's not fair to make decisions on your own and exclude everyone if those decisions are going to affect everyone. If there are decisions that need to be made by management alone, that's [to be] respected, but things concerning recruitment of staff or changes to systems of reporting, or clock in-clock out, the staff attendance, or things like that...[they] need to be decisions that are made as a whole.... You want to feel as though you are involved in the organization not just sidelined.

"We've got good housing; our pays are good."

Nehemiah: "The general [working relationship] here is...friendly, like the staffs. The two bosses are open to us; anytime we can just go into their office and ask them questions. From the admin we have a very good support team that backs us up. When we are to go out, they make sure they get our ticket booked time and all the logistics and travel arrangements are put in place and that makes our life easier.

"We have two good bosses. These two ladies are leading up front. They are steering and leading the ELC ship out of rough waters. I think they show strong leadership. They make sure that everything in the office is functioning. Whatever mistakes, they usually get hard on the staffs, telling them it's not right. You have to pull up your socks and do something. They make sure that our families are well looked after.

"One of the pressing things right now...not only me but for my fellow staffs [as well], we feel that due to inflation, the cost of living is going up in the last couple of years so the salaries that we are getting cater for all our families' needs. That's one of the pressing things that's affecting the staffs at the moment. We are paid our salary and we go out we are paid 60 a day for traveling allowance.

"And the real problem affecting everyone including the bosses, are rising prices of goods and services. Our salary now can not cater for two weeks of living. The inflation has increased say in the last three years to over 50 percent. So that sort of contributes to low staff morale. Most of the staff feel that they are underpaid in some sense. Now this salary they getting can only look after them for a week. That's one of the challenges affecting staff morale."

Donald: "For me, I have a good relationship with all the staff. I'm open to them and they are also open to me. When there is a discussion or problem, they come direct and see me and we sort it out or if I want to talk about a thing, I go straight and sort out."

IA1. Accounts

We have not specifically been tasked with a review of the finances of ELC, but we were given view of one accounting report by Cozmo Ltd for 2005 (dated April 2006). This report lists a number of outstanding debts by staff that had not been finalised, reflecting the general consensus of critics and ELC supporters that, prior to 2006, there was insufficient accountability and the books were not being managed well. The accountant further reports that no one in the office seems interested or capable of running the MYOB program properly, and thus keeping the acquittals up to date.

“It seems that no one at ELC really wants to take control of MYOB and run with it. This is what is making my job so difficult,” writes Gilbert Mills of Cozmo in an email to Annie 2.4.06. “I have to piece it all together behind time and find out the information that should have been there in the first place.”

This underscores what we have heard from more than one party, and clarifies why Donald has been given a series of MYOB tutorials by Gilbert Mills. Unfortunately Mr. Mills has since retired. Our interview with Donald for this review reflects his eagerness to master the MYOB and simplify the accounting task in the office. The problem does not appear to be entirely solved, however, (although we say this without having access to any later financial reports than the 2005 one). The recent loss of donor funding says it all. With the complexity and multiple mandates of ELC, there needs to be a certified accountant on staff to produce the number and kind of reports to each donor that are necessary. This is also one of the many oversight tasks of which Annie deserves to be relieved.

Annie told us, “I know that Donald knows his job. Except, if the lawyers don’t go by their budget, where they need something that he doesn’t know of, then he has to wait for them to give it to him, or for the purposes of planning. We can come up with all these plans and activities, but unless we get this proper, he’s able to help them with the budget, so I find that there is a gap there that needs to be improved...”

“It’s again a working relationship thing. The lawyers need to understand how [an] accounts system works, and they’ve got to understand that we have a budget line for activities, and you can’t exceed the budget line. If it’s an activity planned outside the budget line, then it’s important for Donald to see that the budget is within this range. Now I give all the working staff the contracts with the donors, and I take it for granted that the staff know according to the contract what we are expected to do, because we basically sit together through our planning process to develop the proposal that goes, so that those proposals form the basis of our contract with the donors. When that contract comes back, I circulate it to all the staff and expect staff to know. But when it doesn’t happen, I get frustrated.

“Because of the nature of the cases that we run [budgeting] not something that you can foresee. For example, we allow four (4) legal patrols in a year, and that’s when the lawyers go out to the communities to meet with the clients, and up-date the clients on the cases. That is the main thing, the status of the cases. But then we have these unbudgeted things: the court says, ‘Okay I want you to do this by then’, because the other side decides to make an ancillary application to the court, e.g., if it wants to strike out our case. That basically means we have to go out into the communities again and

get the clients to consent, and give us more affidavits, and to come back out, those are things that cause us problems. I don't know how to manage that, but maybe we need to plan for unbudgeted expenditures. Otherwise the legal training and the other things seem to be running smoothly."

Donald explained, "My biggest achievement would be, when I first started all the books of ELC was all over the place. There wasn't any proper record keeping. In terms of reporting to donor, it wasn't good at that time. When I started my first task was to rebuild or put this account system in place. So I sat down with the previous auditor and I asked him of his recommendations in regard to accounts of ELC. ...We worked together and [he] let me do it on my own. Later he checked and was satisfied that everything was all right, then we kicked off a proper accounting system.

"First thing I did, because we were using old accounting software, the MYOB version 11, so I installed version 13. Then I entered all the donor budgets, the budget we send to donors for approval, into the system, so when I want to raise payments, I go the appropriate budget line and I report against that particular budget line. At the end of the month, I just print that out and I give it to them [management] and explain, this is our budget to RFN and our current expenditure against each budget line is this.

"I see that [the Management's approach] is good because they are controlling, so that at least we do not go over budget limits or we are spending according to budget lines. So I see that it is good where there is some control so that we do not exceed budget limits...I see that there is big confidence in the management because they see that we are updating them and they see that we are doing the right thing to help them make good decision on their end. We are providing them the information, with [a] true picture of accounts so that they are well aware before they make decisions.

"But for our case, we are dealing with donors and the donors they've got their own ...they want the report to be presented in their own way. So I'm thinking of talking it over with the auditors and present this financial report in the donor's style. So far I'm following PNG auditing style so when I send it to the donors they look at it and ask me a lot of questions. I want to do it with this year's financial report 2008."

"This year has dropped [financially]. Previous years, we had three donors so ELC had a good financial position. This year we were not up to date in sending our reports, so it delayed sending the funds, so we fixed the reports and just today the bank called and told us that the donor sent the money; that should put us in good financial position now."

"I'm thinking about tightening financial controls. I mean controls are there but if only we abide by them then it will become a good control system. For example, if we put controls like you are allowed to get K500.00 for a salary advance, that is the control system we impose, but if we the finance people say no, and the management approves, then we are not abiding by what we put in place. This normally happens. This is one of our burdens. This is not according to our financial policies and manual. But because the management are willing to help staff because with the current rise in prices of goods, medical funeral expenses, if we stick to the policies the staff will suffer."

Nehemiah said, “The problem we have is money. The little we have, we have to spend it wisely, [so]we reach as [many] communities as we can and not focus on one area only.”

David told us, “Basically I think the main cause [of the staff leaving] would be that there wasn’t a proper management of the accounts and this has caused our major donors to halt the funds from coming in. This affected everyone down the line. The other big problem [was] the working relationships between the lawyers themselves.”

IA2. Threats, concerns

Annie: “But what are some of our serious threats? I’m worried about the government trying to influence what we do, in that government may pass legislation that will restrict the work of NGO’s. There is already talk about it, that’s why you will note that our set up is different, in that we are not registered as an association, we are registered as a company. In the event that they will eventually regulate NGO’s, we will say we are not an association, we are a legal entity-- we are a company. We just move forward and change our name, but you keep all the assets and everything secured as a company. That’s basically why we set it up as a company and not an association. It also protects the work that the organisation does. You will find that the lawyers also practise as public interest environmental lawyers, and not as Environmental Law Centre lawyers.

“In the event that we are hit by a lawsuit, if we are hit by a professional negligence claim, or if we are hit by government trying to change its policy on NGO’s, we have a practice that’s there, but the managing company being the Environmental Law Centre, we can always dissolve the ELC and set up another company that basically does the same work. Because the...assets are still there, and we have a tight relationship with the donors. It protects the assets of the organisation as well as the work of the organisation.

“ Because we have a lot of communities, and we’re only providing litigation and legal training, I know there are a lot of other NGO’s that are doing community development initiatives, but maybe there’s something that we might want to do for our own communities, or we could work in partnership with those existing NGOs, so long as they are able to provide their services to our communities. I see that as an opportunity for us to work together.

“I wouldn’t want the lawyers to practise as a private law firm. There is an opportunity in that if we win Wawoi Guavi there is a lot of money at stake that we will claim as our legal costs; we are talking in the millions. And we have to have the donors on site with us to help us to decide on how this money should be spent. Because it’s rightfully not ours, it’s the donors’ monies, we are doing this work.. with the money from the donors. And if we win this money from this case that we do, I think the donors should have the first say on how we should spend that money. There is opportunity there. Are we going to sustain ourselves, which is what I’m frightened of. I wouldn’t want us to go private. I like the way we work now.”

II. REVIEW OF WORK

We have had two narrative reports to work with, a 2007 ICCO Narrative Report and a Mid-Year 2008 Report for RFN. With the progress or changes between the 2007 summary and the summary of first half of 2008 as a baseline, we can better assess the year-end data we've collected. The object is to gauge the effectiveness, efficiency, effect, relevance and sustainability of the three activity sectors of ELC's work (Litigation, Policy and Education).

In the ICCO report, the ELC provides a table of progress and indicators/outputs (roughly conforming to the Logical Framework Approach) for each of its current main geographic focus regions: Western Province, Sandaun Province, Madang Province.

Here we will follow the same kind of logic, but using a narrative description to discuss each of the three work sectors, and within each sector, each of the main regions.

IIA. LITIGATION

The team has had 10 cases since 2000, and they presently have eight. Of eight cases reported in 2006, four were disposed of in 2007, leaving 4 active (4 inactive) cases.

IIA1. On the importance of being litigators:

Annie told us, “We need to litigate, because once they make changes to legislation, you can only go to court to fix it. Unless you want to lobby the parliamentarians to change their law. Well, they will say, who are you to take us to court? That’s...the problem. We have a government that thinks up the law and plays pork-barrel politics, in that it doesn’t properly debate legislation, and that it passes legislation on voices, which is wrong.

“And so, if they are going to be passing legislation, especially if it’s going to be affecting the environment, or the people, or people in their environment, then it’s got to be debated properly. The landowners have to be informed on what are the changes...if the new changes are going to take place, and how it affects them. Most of the Forestry Act was passed in one session, first reading, second reading, third reading, and bang! On voices...

“And so with the amendments that come into play, they basically take away their rights to go and sue, for example. We've got to go back to court and say, okay, we need the court to tell us whether these amendments are constitutional or not. We feel that they are unconstitutional, because our landowners are affected. They have run this case on the existing law. And because, by that existing law ,they are entitled ...to do whatever that they need to do. And we can’t continue running their cases if you have changed the law, because it’s going to affect them, and affect the law that is already in place. So you have to fix up this law first. You got to tell us whether law is right by the Constitution or not.

“It is a constitutional challenge, we have to lobby the Ombudsmen Commission to file this reference, because it was affecting whole lot of people. And because the law says that there are only few constitutional office holders who can actually do a Constitutional Reference.

“If an Act of Parliament is passed, and if it is seen to be illegal, there are only five officers who can make a Constitutional Reference. That only includes the Ombudsmen, the Public Prosecutor, the Public Solicitor, the Attorney General and somebody else. Not anybody, not even government officers, not NGOs, can file a constitution reference. It’s only these five constitutional office holders.

“We have lobbied the Ombudsmen Commission and the Attorney General to get them to file this reference on the constitutionality of the Forestry Act Amendment. We actually have to work together with Eco Forestry Forum and CELCOR to put pressure on the Ombudsmen Commission to file the reference. And because we couldn’t file in our own names, we are like interested parties to their references, the court allows you to do that, so we joined them as an interested person on behalf of the landowners.”

IIA2. Comments on the future

Sarah told us, “Just recently the Siar Landowners in Madang, that's basically the one that I was handling. We are sort of thinking of taking a case for them because our donors asked us to assist them. Because we discontinued, it’s like we haven’t really assisted them, so they want us to see if it is possible to take on a personal action on their behalf, to sue the RD Tuna canners. That’s a question mark; we still haven’t decided whether we will. But [if] we do, then it will be either myself or...But I really want to get into policy, but anyway that’s up to the organization...”

“There is [also] Frieda Mine, but we haven’t received instructions from them. That is the Sepik. It’s a big possibility that we trying to move into the area. We’ve received complaints. There are people who want us to go in.

“ [There are] issues concerning the court system's backlog of cases and delays in litigation. That would be the only problem that [clients] raise constantly: 'Why are they [the courts] taking so long?’”

David said, “We also have a good relationship with our client and target communities, particularly Sandaun. We’re slowly winding up in Western and going in to Sandaun.”

The ICCO Report explains that ELC constraints have been transportation to and from field, based on remoteness of these sites, new staff and high staff turnover. Despite the appearance of an excellent case record, they really have very few cases on their books, and these are moving extremely slowly through the courts. If the court pace is insurmountable, it is also no excuse for sloppy legal work (and late filing).

Interested observers were generally in agreement that ELC's legal work needs improvement. Some suggested that they go private and learn from the intense pressure

and competition of private practice. ELC needs court experience, they need to litigate, to get practice at the work of it. The courts have put a choke-hold on this very important part of their mandate, and they will continue to suffer as lawyers as long as the courts control the pace of their courtroom work.

II. A3. Target Areas

a. Western Province

- During May 1-7 2008 Nehemiah Narris and David Warpui worked on the updated Environmental Impact Assessment of the Wawoi Guavi Timber Rights Purchase Agreement area.
- OS 612 of 2004 Between Hawo Kuru and 3 Others v. The State, Papua New Guinea Forest Authority (PNGFA), Minister for Forests, and Wawoi Guavi Timber Company Ltd. and WS 1465 of 2004 Between Haro Kuru and 3 Others v. The State, Papua New Guinea Forest Authority (PNGFA), The Minister for Forests and Wawoi Guavi Timber Company Ltd., have been consolidated. These cases have been delayed because of 'lost' files in the National Court Registry. Mary Boni has taken the case over from Annie Kajir and is assisted by Diana Mewerimbe. A conference was scheduled for 21 August 2008 to discuss how ELC would amend its plea following consolidation, and the cases were together listed for trial 16-17 October 2008. ELC was unable to get expert witnesses to trial in October 2008, and Queens Counsel Nelson Marshall Cooke was also unable to attend. The Wawoi Guavi cases trial dates have been deferred to early 2009.
- The Kamula Doso case arises from the Ombudsman Commission investigation that asked for Rimbunan Hijau (RH) to hold off on logging in KD until legal compliance could be secured. In 2004 RH sued the PNG Forest Authority for breach of contract. December 2005 the PNG Forest Board settled by allowing the permit extension to the company. This resulted in OS 259 of 2006, involving Kenn Mondiai and the Eco Forestry Forum (EFF), who were represented by Gadens Lawyers. Kenn Norae Mondiai, Eco Forestry Forum, John Danaiye v. Wawoi Guavi Timber Company Ltd., Papua New Guinea Forest Authority was then delayed: “The main reason being the inefficiency of the courts to manage cases causing undue delay despite numerous attempts by ELC in taking the necessary steps in expediting cases to trial or a final hearing.”
- They seek a court order to have the PNG Forest Board reverse its permit extension. In 2006 PIEL appealed to the court to add John Danaiye as a plaintiff (in part, because the permit for RH in Wawoi Guavi is being challenged, which means there should be an injunction against this extension), and the court allowed this. But Wawoi Guavi Timber Company (WGTC) filed an appeal, SCA 22 of 2007, and ELC then filed an objection to that appeal, SCA 3 of 2007, which was dismissed, with costs to plaintiffs (ELC).
- SCM No 3 of 2006 is another case, handled by Mary Boni and assisted by Annie Kajir and Diana Mewerimbe. This is an appeal by Kenn Mondiai and EFF against the National Court allowing the permit extension to WGTC for Kaula Doso. It seeks to quash the decision as an error in law by the judge. Their assertion is that

landowners have not been made aware of the environmental impact, and the plan is to send lawyers into the area in 2009 to get further data for the case.

- In 2006 Queen's Counsel Nelson Marshall Cooke applied in behalf of PIEL to add John Danaiye to the appeal. WGTC filed an objection to this, and the Supreme Court refused the application by PIEL because it was "filed out of time." Again, PIEL was responsible for costs. Gaden's objection to WGTC's appeal was also dismissed with costs against Gaden and PIEL.

Annie says [Speaking of Bokoromo, Kupia Block One and Block Two]: "Well, the problem with those people is this; logging had actually taken place already by the time that we had gone in. Their land was untouched and we did not have any clients to instruct us in those areas, because they were all pro-logging. So it was quite difficult for us when we were working with John. They were the very ones who were against us. Afterwards, they learned that they were doing the wrong thing and decided to join, but then it was too late."

The final ruling on the permit extension came in late October, as a win for Gaden's Lawyers:

Post-Courier November 1-2 2008 p 15:

Rights to log forest back in court; Court squashes rights to log Western area

The battle for the rights to log a huge area of forest in the Western Province has changed course, with the issue heading back into court. The National Court orders two and a half years ago awarded Rimbunan Hijau (RH) the rights to log the vast Kamula Doso forest area. The Supreme Court has now quashed these orders stripping RH of any rights to Kamula Doso. In April 2006 the PNG Eco-Forestry Forum began a Supreme Court challenge to the original orders obtained by RH and has been fighting RH in the Supreme Court since. In making its decision, the Supreme Court awarded indemnity costs against RH and the PNG Forestry Authority. Kenn Mondiai, chairman of the Eco-Forestry Forum, called the Supreme Court decision a major victory for good governance. Mr Mondiai and the forum were the two protagonists in court, with Wawoi Guavi Timber Company Ltd (a subsidiary of RH), the PNG Forest Authority and the State of PNG as the respondents. The 800,000-hectare Kamula Doso concession is the jewel in the crown of PNG's remaining untouched tropical forest areas. Greenpeace organisation says logging companies are desperate to get their hands on the concession. By not logging Kamula Doso an estimated 36 million tons of carbon has been saved, worth at least 1 billion Euros, they said in a statement. Greenpeace forests campaigner Sam Moko said: "This Supreme Court Ruling is a significant step in the right direction. If Papua New Guinea wants to be taken seriously internationally when asking for carbon financing support, there must be a moratorium on the allocation of all new concessions," Mr. Moko said. The matter, sent back to the National Court, is expected to be heard early next year. Judges in the Supreme Court decision were justices Bernard Sakora, Mark Sevua and Alan David.

- SCR no 5 of 2005 is a constitutional reference filed by the Ombudsman Commission questioning the constitutionality of the Forestry Act (of 1992) Amendments of 2005. This is a policy case and its implications may be said to be foremost of all the PIEL cases, but it has dragged on for almost 3 years following

the politics of national elections in 2007. Ministries and government departments have changed hands, and lawyers need to keep confirming the participation of their ever-changing clients. A trial was scheduled for November 2007 but was postponed due to a technicality (in behalf of the lawyer representing the Attorney General, an intervenor along with the Wawoi Guavi landowners, and Minister for Forests). It is now adjourned while the Ombudsman Commission appoints a lawyer to it.

b. Gulf Province

The Vailala case was dismissed with costs against ELC on a technicality, and ELC is trying to get the landowners to appeal to the Supreme Court. The invoice on this case is also outstanding. Vailala is a difficult case, as it may have come too late to ELC. The action challenges the validity of a timber permit and an injunction on payment on treasury. It was referred to them by another law firm (Henao). It is more about the money than the land, however, which makes it a low priority for ELC lawyers.

Sarah notes that taking on pre-existing cases means inheriting other lawyers' mistakes, and this is a risk they cannot afford to take. The question then becomes, who will take these cases? Can ELC be that exclusive?

c. Madang Province

- The Madang case CA 293 of 2001 is on appeal and titled SCA 115 of 2006. It had its hearing set for November 2007, but was dismissed on a technicality. The National Court said it had been improperly litigated by ELC (they had filed late). The appeal to the Supreme Court was disposed of because of the late filing and saying customary land rights should not be heard in the National or Supreme Courts.
- OS 544 of 2004 involves a dispute over the State failing to return Siar land to landowners. This outcome was contingent upon CA 293, so it also was dismissed. OS 544 Dahan Company Ltd & Kumai Mumun v. The State, Madang Provincial Government, RD Tuna Cannery Ltd. had its appeal date vacated in July 2007.
- CA 293 of 2001 Kumai Mumun and Others v. Iduan Ahi was dismissed in September 2007 for late filing, and an appeal was filed October 07.

Sarah is currently meeting clients, the Siar landowners, who complain that things have moved very slowly over 4 years. PIEL lawyers Annie and Sarah both agree that they should have known better than to lose on a technicality. Sarah will now prepare a legal brief on the pollution and environmental damage of RD Tuna (following an EIA).

d. Sandaun Province

- Sanduan Province cases involve restraining orders against CBOs [Community Based Organizations/Officers] conducting legal awareness and paralegal training. There was no litigation in 2007 or 2008. A date has not been set for the hearings. OS 159 of 2006 Gabriel Pafo and Robert Seky & Ors vs. Raymond Taleng and

Philip Taleng had a March 2007 hearing date that was vacated because the judge was on duty travel.

- The Midyear RFN report states: “ELC anticipates to also file a further application to dismiss the proceedings against the defendants for want of prosecution.”
- The report also explains that “[2008] Legal patrols into Sandaun and Madang Provinces in anticipation of instituting legal proceedings on behalf of communities in Aitape, Lumi, Amanab (Sandaun) and Siar, Kananam and Ramu (Madang Province) have been deferred to the later half of the year as a result of the lawyers concentrating on the Wawoi Guavi, Vailala and Vanimo cases that were continuously in court on interlocutory applications and directions.” These patrols have not been conducted.
- OS 159 of 2006 is carried by Diana Mewerimbe. In this case PIEL is defending customary landowners in Sanduan province (Vanimo) who hold a timber permit, against other landowners represented by Henao Lawyers who took out a restraining order. PIEL was able to lift the restraining order, and were given a court extension for filing their notice of intention to defend; this had been completed. ELC will apply to dismiss the proceeding when the application for damages to be awarded their client has been heard. A 2007 hearing date for this application was vacated, and has not been rescheduled.

e. Oro Province

- Oro is not strictly a target area for ELC, but they handle this one Coronial Inquest of Abraham Okau. Community leader Okau was murdered by eleven community policing officers and one police officer. Only 2 men have been charged as yet. Brian Brunton had the case, but it was transferred to ELC because he went to the Solomon Islands. But no one had responded to the letters ELC sent out. The ICCO 2007 report says the matter has stalled “because of incompetence of the provincial Police Commander and police officers of the Oro Province” who have not arrested any of the others accused.

I. B. POLICY WORK

Policy reform is part of the ELC mandate, as redefined in 2007. ELC is also committed to working on policy and planning at the local level.

Sarah should be a dedicated policy lawyer. “We don’t have a policy lawyer at the moment,” she says. “I’d like to be the policy lawyer. I’ve advised Mary and ...it was mentioned in one of the staff meetings that instead of getting a policy lawyer, they should just help assist me to put me through training... that I need to become a policy lawyer and I can take up the task. And they [ELC] can recruit someone to take up cases or focus on litigation.”

“At present, I don’t think I’ve enough work,” Sarah says. “I was taking on a case but that case was discontinued. So it’s left me now with the project (ICAC)...

“I have a desire to do policy work more than litigation because I feel that it’s an area that I’ve been more suited to. So whilst working at ELC I’ve identified that: That is the particular area that I want to focus on....I like the fact that you get to sit down and look at the laws that can actually have impact the way PNG is governed whether laws that will help the country ... I think that’s some way that I can make a difference in my work...that can help Papua New Guinea develop better.”

The ICAC workshop in October was an unqualified success. Conducted 16-17 October 2008. Sponsored by the Democratic Governance Transition Phase (DGTP)(Ausaid), it was further supported by RFN [Rainforest Foundation Norway], EFF [Eco Forestry Forum], PWM [Partners With Melanesians], CELCOR [Centre for Environmental Law and Community Rights, Inc], BRG [Bismark Ramu group], WWF-Moro [World Wide Fund for Nature--Moro], and SANCORDEF [Sandaun Community Resources Defense Front]. The program was chaired by Richard Kassman, GM of Inspac PNG Ltd and Director of Transparency International PNG.

The ICAC workshop aimed to create an anti-corruption strategy under which the Bill can come in and be completed. Systematic corruption is so deeply embedded in the current administration that it makes this effort especially difficult right now. The leadership code is also poorly enforced, and because the Ombudsman Commission lacks criminal jurisdiction over the most egregious cases, corruption seems to go unpunished. Sarah is now working with Dr Eric Kwa (who heads the Human Rights Centre at UPNG) on the 1997 Anti-Corruption Bill drafted by Peter Donigi and Sir Barry Holloway.

Dr. Kwa told us that he would like to see the ELC take on the ICAC process with the Attorney General, to 'own it.' They also need to liaise with UPNG more, and with himself, to prevent a duplication of efforts.

Annie traced the history of ELC's policy work: “In the area of policy work, we have done a lot actually. The forestry campaign is still on, we’ve been able to lobby at an international level and at the national level. I’ve been involved in lobbying at the US government. I’ve been asked to lobby [the] US senate on amendments to what they call the LACY Act. This basically means that it will be illegal for the US to be importing timber from countries like PNG. Those are not coming from legally sourced harvesting areas. The senate now has passed that Act to say that it is now illegal for the US to import timbers from PNG that are coming in from areas that are practicing unsustainable logging. That’s a big achievement.

“I’ve been asked to lobby on behalf of international NGO’s like Greenpeace, the CR Club (it’s a huge conservation group in the U.S, who are radical and vocal on environmental issues), so through them, and the Nature Conservancy, all those big international NGO’s, if they need to lobby in their own countries they actually ask the Environmental Law Centre to participate. We actually go and lobby those countries to change their attitude towards importing timber from PNG.

“I’ve also lobbied in China and Japan. China was pretty good because it’s the first time the NGO’s got their foot through the front door with the Chinese Government to talk about illegal logging. That was done because Greenpeace wanted to lobby the

Chinese market, but they couldn't get in, and being awarded the Goldman Award, I was asked to lobby in China. We got some policy changes in China.

“When I went in to lobby Japan, Japan immediately said it will give 40 million U.S dollars to Pacific Island countries to deal with illegal logging issues. That's the impact that we have made at the international level... It is an organisational thing ...but it's also the value of the work that ELC does, that has a bearing on, you know, I'm only an individual employed by the Centre. It's what the Centre does that makes me achieve, I do my work in line with what the organisational objectives are. And you wouldn't see [me] in isolation I would think. It's the reputation that the organisation has...I'm hoping that more [of] our lawyers go out to do this kind of work. People mustn't see me as the only person who does this work for the Centre. They've got to see that there are those other lawyers there who are equally as good as me. We've got to build that reputation among the lawyers themselves. They are getting some experience now, but not enough, is my view.

“Sarah's going to be famous because of the ICAC workshop. She is coordinating the ICAC workshop...I think we should [recruit a lawyer for policy work only], although we could look at Sarah because she seems to be handling the policy issues very well. We could either recruit or get Sarah to be the policy lawyer so that she can deal with all the policy issues for the organisation. But we had to think about it because she's catered for under the ICCO budget, which means that she is responsible for the cases in Madang (i.e. Kananam and Siar). So she's a staff lawyer under that contract to do that duty. If I'm going to make her the policy lawyer then I've got to find another lawyer to come in and do that. It will affect the work that we do.

“We're sitting on the government committees looking at submarine tailing disposal; we're sitting on committees by the government to look at land reforms; and we're participating in other government discussions relating to forestry. We're lobbying already the World Bank, AusAid, and all the donors on the environment policy. We do need someone full time in Policy and maybe [for] Training.”

Sarah told us, “I take up cases based on criteria-- mining or forestry cases, anything to do with the goals or objectives of the organization. And so I give legal advice to clients, anybody who needs advice so it is free, *pro bono*. Litigation is only for 'target' areas. We do research on policy issues – we basically look up laws that are being reformed or changed, especially in environmental law or environmental areas, [like] forestry laws or mining laws. We have to attend seminars or stakeholder workshops, so we have impact on reforms that take place, or policy issues.”

Nehemiah told us, “Currently I'm one of the committee with the Constitutional Law Reform Commission (CLRC) called the Review of the Tailing Disposals Laws; [these laws] are going to be reviewed very shortly and we are going come up with a new draft for Parliament to sit down and pass. One of ELC's objectives is to participate in formulation of new policies for Parliament...especially reflecting to natural resource. Out of this committee for the current one that I'm sitting on, we are anticipating that we can come up with good laws to regulate the way mining companies dispose of their tailings.

“We do occasionally [attend workshops], depends on, say if it is relating to mining and waste disposal, I can see Annie and Mary and request that if it’s within the budget line than they can approve for me to go and attend. Generally speaking we don’t have a budget for workshops and trainings for staffs. We do not have budget lines for staff to go and attend short courses to educate them on new aspects like climate change. For example, when University of Papua New Guinea facilitates short courses on climate change then we can send staff to that training and familiarize [them] with the latest global trends. That’s one of the aspects that can help equip our staffs.

Sarah said, “I attended their (EDO) Annual General Meeting once in 2006 where I presented a paper, so that they are constantly aware that [ELC] has a big impact on logging in PNG. Recently they wanted to help us get lawyers to attend short courses down there [Sydney] just to help us in terms of our advocacy. They have identified the courses we can attend but ...registration [is late]...most likely next [year], hopefully. We’d really appreciated attending those types of course. EDO will meet the cost.

“I think we just need to do more, we need more exposure, especially myself, I feel I need more exposure because I feel I can contribute a lot in policy work. And I would like to have more exposure towards how I can do up proposals or policy papers. Just basic...how you can draft up these sorts of things, and also more exposure toward issues that are happening not just within PNG but within the region as well, like climate change.... We are thinking now we have to get involved in climate change because that’s a big global issue now and ELC has not really taken that on board yet. So that’s another area we can get into. In order to do that we need to attend workshops. We need someone who can identify... who is willing to go or do we have funding for that? At the moment no one is focusing on that so it’s like we are left out. And I find that we converse with other NGOs, the other lawyers...they are more knowledgeable of these things and we don’t have that knowledge so how can we contribute toward that if we are not informed?

“Just to ensure that we take part any workshops, meetings, seminars or anything that will help us to become more knowledgeable in these issues so we can contribute more effectively. To put aside funding for that. At the moment we haven’t being doing that. In the past 2006 and 2007 [we had some] but not as much as we should. This year there was nothing because of the issue of funding but they should really focus more on getting us involve in these [workshops and meetings].”

Nehemiah said, “We are open to [a] law review; [to] formulation of new policies. Currently I’m on the Board of the Constitutional Law Reform Commission (CLRC). We’re looking into mining laws in relation to tailings disposal, and [want to] come up with new laws to deal with tailings disposal. This was a result of the Fly River crisis. The Tolumua cyanide disposal, which resulted in people dying along the Alanbanga River in the Central Province, [forced] the Government [to take] this very seriously and [it is] trying to address this issue of tailings disposal. [The Government] has instructed the Law Reform Commission to come up with new laws to effectively deal with this problem.

II. B1. Links with other organizations

Sarah admitted, “We do tend to stick to ourselves and we [are] not so very involved, whereas CELCOR are more involved in the community in a sense that their lawyers are always carrying out legal awareness. They are always out there in the communities, that’s why I think more people are aware of CELCOR work as compared to ELC. We are more focused in the courts. I think we should have a balance of the two. We can focus on the court work but we if want to make an impact, if we want the community to know about what it is, we need to also do community work as well through our legal awareness.

“There are all these things happening around us that we are not taking part [in]. I know the funding [is what] really limits us on how much we can be really involved in....We talk about Human Rights, we talk about climate change and we talk about all these major issues that are happening in PNG and yet we are not being actively involved. We still taking a backward position.

“The basic challenge is that you are going up against the views of the government, and the mining companies or logging companies. They have very powerful connections and they are influential in the way certain laws would go, in the way they want [them] to go. And you as an NGO, someone who is trying to do things in the interest of the people, will always have those challenges as to how you can work alongside the government to come to a compromise on what’s best for the people. So the greatest challenge for me to work with those people you’d normally see as your-- you know, people that would go against the work that you’re doing. So that’s a challenge, that’s always a challenge.

“We’re basically trying to meet with them when we are doing a lobbying or campaign on a particular policy or law, [or when] you’re trying to review redraft. You’ve to meet with them to sort of gauge their views. Like now, with this ICAC project, we are hosting a workshop and we are inviting all the bureaucrats...all the Secretaries of the Government Departments. We are currently meeting with the CIMC which is a constitutional body... They know that we’re interested in trying to work alongside them for the benefit of our citizens, [the] people of Papua New Guinea. Instead of always seeing NGOs as being opposed to development and the work that they are doing, we’re trying to show them that we do want development but [in the] best way possible for the people.

“...We’ve gotten a lot of [good] feedback from most of the Departmental Heads (GoPNG); if they are not going to attend then they’ll send one of their immediate juniors to attend on their behalf. But at least they’ve shown that they are interested in this issue that we’re trying to push for. That has shown us that there are ways that we can work with the government instead of always [being] at loggerheads.

“We don’t meet with other NGOs on [a] regular basis. We meet on occasion with CELCOR because we share, the work that we do is similar. We are the only public interest environmental lawyers that are actually functioning here in Papua New Guinea. We do share with them a lot of information. Whenever we need assistance we call them. We have that working relationship. But the other NGOs, not so much. I think the other closest ones would be BRG and EFF. EFF because it’s our umbrella

organization; a member of our staff is on the board. Another one is PWM because I'm on the board of PWM. We do have those working relationships with other NGOs but it could be more interactive.

"I think [interaction will help] because there are issues they are more informed about, like [in] relation to climate change, conservation work or forestry work, stuff like that. And if we need information from them at least those contacts are established so we can feel free to go and ask them for help...But at this point in time, we are not really familiar with them so we sort of look for that information for ourselves instead of asking our NGO partners to help us.

"We've got wide stakeholders; we've got everybody involved, from the private to the public. You have the mining companies and then you've got government; all the government line agencies like the Mineral Resource Authority (MRA), the Department of Justice and the Attorney General. We also have the professors from the University of Papua New Guinea, and also from the civil society, like NGOs, ourselves, the Environmental Law Center, CELCOR, SAAD (an NGO that deals with mining and communities)...we have a lot of people involved.

"It's challenging; it's a daunting task but I look forward to rubbing shoulders with those in that circle and making ELC's position known... The Constitutional Law Reform Commission has yet to finalise the concept paper. So once they finalise the concept paper, they are going to give it to each individual organization to make their submissions.

Annie told us, "[W]e have a good working relationship with members of EFF, Partners with Melanesians, CELCOR, FPCD, Green Peace, WWF and all the other NGO's. Not only that, but they also come to us when they need legal assistance and training. That is, if they have a problem that requires a lawyer...We have been [with] Partners with Melanesians in two cases so far...[O]ne was a case involving their officer who was in possession of unlicensed firearm, and they said they had purchased it for the organisation, which was a bit tricky. And we had to get them out because they had being working in the Manangalas plateau. It's about the people, and serving the face of the people who work with them. That was strictly a police matter, but we advised them they [police] should bring criminal charges against you [PWM].

"We are more concerned with the communities they were working with, and how they are affected by your activities. Also human rights abuses by the members of the police force. Also in Partners With Melanesians, one of their village elders got killed by one policeman and about 10 community policing officers, in front of the whole community, and that's very wrong, so we had to go in and help them. We have also helped so many other communities...

"We've set case precedents for the country, in that we have won the Collingwood Bay [case]. We've made major policy reforms. The case that ELC dealt with for EFF, we were able to get a precedent from the court [that] now allows NGO's or public interest bodies to go before the court and sue. In that they have standing. There is an issue of standing if you are going to go to court on a public interest or land issue. Unless you are directly affected by a project, the landowners [only] have the standing to go to court. If you are a busy body (like an NGO) you don't have that standing, or the right

to go before the court. We actually changed that, and so the courts are in a position to say that we recognize NGO's: so long as they are not doing it for their own benefits, but for public interest, [they] can come before the court to address this issue. So that's basically history for PNG.

"There is a problem I think with duplicating [of efforts] in that we are running community legal education programs, which CELCOR does, and so there may be duplication in the same target group areas, same communities, not knowing who is going to do what. I feel that there is a problem we need to iron out with CELCOR.

I said it a number of times with EFF and CELCOR that we need to properly define what each of us is doing in our target areas, people should understand and it shouldn't be a matter of competing. We should be pooling our resources and, say you are good at doing that, why not, you focus on that. I see that is a problem.

"I see there is a problem for ELC when we have other NGO's who are able to do this work but they are coming to ELC For example, we have CELCOR who has different target areas and projects. It reflects badly when their clients come to ELC to take on their cases. ELC is reluctant to do it because we respect the fact that there are other NGO's who are already doing that work with their communities, and as lawyers it is wrong for us to be taking on something else if you have already instructed another lawyer to do it; it's wrong...

"I see that the NGO's are fighting the monumental battles, in that we are filling up a lot of space that rightfully should be done by the government, and that the government seriously needs to work with the NGOs.

"Last week the Greenpeace did [have] a little bit of problem again. They went in and sort of raised the issue again. The Esperanza went in with their campaigners and documented what RH was doing...on their land. They actually called and I said, 'please, go ahead and document everything'."

"When it comes to international NGOs I call Greenpeace anytime, and I can the Environmental Defenders Office in Sydney any time if I have a problem. I can go to the ERO network. I can rely on WWF [World Wide Fund for Nature], they are very good because if I need any transport, ('I need a chopper now, please, can you help me a chopper'), and they'll help me. I haven't really worked too much with Conservation International. TNC [the Nature Conservancy] is also very, very good; ICRAF [Individual and Community Rights Advocacy Forum] not so much."

ELC's been effective, too. "In the Kamula Doso issue," **Annie** reminded us, "ELC was responsible for staffing it up in the first place. ELC basically went to the Ombudsmen Commission and filed the investigation, asked the Ombudsmen to investigate the allocation of Kamula Doso to RH. The investigation confirmed that there were breaches in the Forestry Act and the Forestry Regulations. Following that, ELC made a representation to the World Bank, and other independent forestry review teams set up by the government came into place at that time."

David told us, "We have this component [with] which we empower our networking with other NGOs in the country. For instance in Port Moresby we have partner NGOs; and throughout the provinces as well. This year we have come up with a plan that we

should get involved with our partner NGO's to meet quarterly or monthly to discuss the issues of the day.

“In previous years the NGO's isolated themselves, they worked on their own. We [still] don't know what they are doing, and they don't know what we are doing, when it comes to discussing issues we are all over the place. From my opinion the current network is not as strong as it should be.

Nehemiah said, “The only one is the Environmental Defender's Office (EDO), based in Sydney. They are our key partner organization and we do have strong working relationship with them. Just recently [they] had a newly employed programs manager, she came in and she met and us and basically just to familiarize herself with their partners here in PNG. But mainly ELC and CELCOR, because we are public interest environmental lawyers.”

II. C. Training, Monitoring, Education and Awareness

The ICCI 2007 Progressive Narrative Report explains that in that year 7 training workshops were conducted: 3 paralegal trainings and 4 community log monitoring trainings were conducted for Western and Sandaun Provinces.

In Western Province, training was conducted for 33 participants in 2007, eight of which were female (less than 25%). This was an increase in female numbers, though, and they were more active participants that previously. The workshop materials were a little too sophisticated for the majority grade-8-leaver participants. Could they be made simpler, more visual/illustrative? The participants were eager to have paralegal training as well, although this has not been forthcoming since.

The training was given for the Kamula Doso people, but as they live in Makapa and Pikiwa grounds right now, these host communities, who are receiving logging payments, were treated to an unexpected education in the price they have paid for logging. In turn, this may have had an impact in the Kamula Doso audience too.

There was no training in Madang for 2007 or 2008.

Sandaun had paralegal training and Community Log Monitoring workshops in 3 villages during May and October of 2007 (and none in 2008). Imbinis proved to be a model community, well prepared for the workshops (they had built their own training centre) and extremely appreciative. Of 41 participants in the workshops, 8 were female (roughly 20%). ELC's 2007 report to ICCO notes that following this training, the community told ELC they would not be misled by any logging contractor. They also expressed interest in working with ELC when it enters the Amanab area. Amanab people had also organized a patrol into the area in preparation for ELC's future work.

In the third location, Aitape, the Catholic Diocese proved an excellent partner for the workshop, and even offered ELC an office in their building, while the local NGO SANCORDEF, Sandaun Community Resources Defense Front, helped with organizing.

The Lumi workshops were also assisted by the Aitape Diocese, and over 30 people attended. Local CBOs expressed interest in working with ELC: Otengi CBO, St Mary's catholic Youthm and Laum CBO. The big problem, however, was that in both Aitape and Lumi, there were not enough workshop materials to go around.

David Warpuai is a Unitech-trained Forestry Officer and responsible for the Community Log Monitoring component, which is a form of training in the logging Code of Practice. He joined Nehemiah Naris and Joe Pokan in conducting a new Environmental Impact Assessment for Wawoi-Guavi early in 2008, and thereby contributed to the success of that court case.

David explained, “For this year, we planned to run a workshop in this area [Vanimo?]. However this will depend on our funding from ICCO because the Community Log Monitoring Component comes under the ICCO. So far we haven’t received any funding from them yet. We have planned two workshops in Vanimo this year [2008], if time permits us. The workshops will be held along the east and west coasts. The venue and the facilities have already been set up by the communities themselves.

“The major challenge that we have faced is the remoteness of the communities. Some of our target areas are very remote. For example, in late 2006 we couldn’t get into a village in Balimo. Since there were no flights to this area, so we would have to go by boat, and the worst [thing] was there was no fuel in at that time, since it was the dry season. The ships could not come in [to] dock. Irregular flights and weather can be a challenge for us.

“At the moment no one is [doing programming]. Basically I’m going ahead and doing the programs in terms of what we will be running and where, etc. I’m the only one who will sit with the management to discuss what will be done for the trainings [such as]the timing, financing and so on.

“Basically I run community workshops in our target area in Western and Sandaun provinces... Probably my biggest achievement would be getting back down to the people themselves, I see that as a big boost for myself, in terms of confidence.

“In our workshops we get the client to be more aware of the situation on the ground and that’s where we are able to receive directions from our clients, like now that they know what the logging company will do with their resources and they [will ask] ELC to take on their case...

“Basically we are starting to reach out into the communities that are more disadvantaged in terms of geographical location, like. up in Amanap, there’s hardly a road network. Through our home-grown contacts in the province there have being some foot patrols, our ground committees have set up themselves and have gone into this remote areas for 2 or 3 weeks to do general scoping of the area. We haven’t physically gone into this area. We have tried going into this area in 2006, however it was not easy to schedule an aeroplane (MAF) from the nearby airstrip...

“When we initially go into communities, it seems that the majority of the communities are with us, in terms of education. First of all there is misunderstanding, but after introduction and [formalities], then we have quite a good number turn up [to

participate]. But there are a minority, who are one with the company or have self influence in the decision of the company, especially ILG representatives ... they tend to not cooperate with us. On the whole we get quite a good response from the community.

“I have 3 different components which come under the Community Log Monitoring [Program]: the PNG Log Codes of Practice, Log Scaling, and Waste Assessment. When it comes to workshops, I usually type out the list of activities which will be carried out, then go through them again with the participants on the board. If they need any clarification on certain points or areas, I try to guide them through. So we prepare notes and presentations on the board. Before I come on, there are pamphlets issued to the participants, however we are trying to change some of our materials to Pidgin.

“I think [the] communication [and] legal education aspect of the ELC’s program is going well. We need to run a few of the follow-up workshops on that to really get the people involved. One of the strategies is the T.O.T (Training of Trainers). Train a group of participants from different areas where they can go back and train their own communities, which will take some time. One of our major obstacles is the lack of funding and resources which we need to use in this follow up activities to keep them on track.

“One of the best ways [to convey a message] is to conduct field assessments. Go out with them in the field, [so that] what is taught in theory can be viewed practically. For example, in Log Scaling I usually take them out to field assessments. We just find some logs and take some physical measurements and calculations. I think more exposure to the actual working environment would be a very good help to the communities. But then there are company officers who [don't] allow us into rural areas where the operation is.

“Normally after trainings I put up a few questions and get the feedback from the participants which I also use in my report as well. This will help to improve my next training. Previously we were using some questionnaires that we gave out to the participants to fill in, but this needed to be rewritten again in simple English...”

“Last year [when] we first moved into Sandaun province, we [went] through the home ground coordinators in the province, especially the dioceses of Aitape. We managed to identify 3 different CBO’s in that province. One in Aitape, Lumi and Vanimo (Imbinis Development Corporation), and a locally setup Community Based Organisation, SANCORDEF (Sandaun Community Defence Front)...These three organisations have been educating the community on the issues of illegal logging in the Sandaun province.

“Vanimo Forest Products have been operating for 40 or so years and there have not been any tangible benefits for the landowners....Nowadays, it’s very hard to find officials that are willing to come down to that [local CBO] level. But there are a few that have the heart for that, [especially] if we are able to get in touch with the inspectors of the PNG Forest Association (PNGFA).

Nehemiah said, “[Training] has impacted the community greatly in terms of the communities knowing their rights over their resources so they can make informed decisions. Especially [in regard] to resource developers in the forestry sector. When the logging [company] wants to come in, they know their rights. I see the training as one of the essential tools to ELC's cause of conserving and preserving the environment.

“We usually [receive] a lot of words of appreciation, from Councilors, village elders, village chiefs, thanking ELC, and they always want ELC to go back and run more trainings. I get a lot of satisfaction. When I go out and teach people about the side of law over their resources, it's mostly like an eye opener. Most of them are new to it and to teach them and open their thoughts, and [then] the people know their rights over their land. And the feedback they give always touches me, so I feel like going back to the communities and giving more training. To educate my fellow Papua New Guineans back in the villages to know their rights ...motivates me to go out and give more trainings.

“After I cover a topic, I give 30 minutes for participants to ask questions, or for clarification. Or if they want to know more about certain aspects of law. Then I explain further. At the end of the workshop, I usually conduct a small test. I usually find a 60% to 70% pass rate. Usually I have around 30 participants; about 10 females and 20 males.

“Most training that I've conducted, towards the end, we usually [ask] a session for their feedback, what they've learnt from the paralegal. Most of them [say] it's an eye opener to them, like before the training they don't know what their rights are over their resources. But after the training they've come to understand basic laws relating to ownership of their resources, also the rights under the constitution and the different types of laws that operate in Papua New Guinea.

“Now they see that they don't want [a] logging company [to come] into their area in the first instance but they have been persuaded through legal means like undue influence or duress. We take on board their instructions and we come back to the ELC office. I sit down with Mary or Annie and we look at whether we have a viable case before the court. Then we weigh our options and we get back to our client. If we analyze and we see that we have a case then we go back.”

Sarah told us, “Change for the better, we get services into those areas. They have roads, they have bridges, they have schools, they have hospitals. Because at this point in time a lot of our clients [in] these logging areas, they don't have these basic services, and these are things that should be given to them. It's not even a question of whether it should be, it's automatic. When a project comes into place these things should also follow. And if [it is] not happening then there is a problem, and we have to go and help them...Every area that we go into, we hold workshops and trainings for the people so that we equip them to also help themselves.

“We could do a lot more [training] but at the moment we haven't been doing that. I'm not quite sure, but I think it's trying to phase out, but I believe it should still take place. We should still carry out training and workshops because there are so [many]

out there that need to look after themselves; [and learn] how to enforce the laws in their areas.

III. CASE SITE VISITS

III.A. SIAR

Sarah told us, “When I was employed in February 2006 [Siar] was the first case that I’d to take on. It was continuation from previous lawyers that were with ELC. Prior to that it was ... commenced by a private lawyer, and then ELC, as a favour to one of their partner NGOs, we took up this case to help them out.

“Basically the case involves customary issues; because two cases, one was a civil appeal and the other one originated [as a] summons to enforce a breach of contract, but they were issues and facts that were correlated, so it’s like one depended upon the other. This customary leadership issue, if it was enforced or our clients had been successful in enforcing it then they would have been able to also enforce this breach of contract. Because it would then give them give them legal status. Their representation would have been recognized and they could force this contract. But because that was in doubt, if this failed then the breach of contract would also fail; so that’s what happened. We pursued it all the way up to the Supreme Court because initially the civil appeal in the National Court was dismissed.

“We appealed that to the Supreme Court and then Supreme Court dismissed that on technical grounds meaning that we were out of time. We filed it, like, one day late. And this was because I think we’d misunderstood the laws in relation to public holidays and these are technical things in relation to legal processes. Because of that, it was dismissed and because it was dismissed, we couldn’t pursue the breach of contract because we would have failed. Because our client wasn’t legally recognized as the clan leader, so we had to discontinue it.

“We will make sure we do not take on cases from private lawyers or our other NGO partners. It’s a very complicated issue to deal with because you are coming into a case where someone else has commenced the proceedings and there are all these issues about the way they write the witness’s summons. It might be that they didn’t write in the proper way; it’ll come back and haunt you again. When you take on this case. All the faults that they have in when they initiated it, you take on those faults and you [are] going [to] have to go and try and ...so it’s really complicated; so the best is not to do that. I think we’ve decided that from now on we are not going to take on cases; we’ll initiate the cases ourselves.

John Musa in Siar spoke to us. “I am the Chairman of the Dakham Landowner Company and was a client of ELC. We are very upset of how ELC has handled the case. Firstly, there was long delay. It [ELC] was not timely in prosecuting the case and when you are against big companies like RD, it eats many trees fast (implying mobilize resources and developing fast) and when you delay many developments happens and that just complicate things. This is one point we saw; delaying system of ELC, we are not particularly happy with. Maybe they (ELC) are short of funds but we expected things to happen fast. That is the expectation of us, clients. Like us small

people challenging big companies like RD, we must tackle them quickly before they move on with other things.

“Secondary, especially about our case, ELC wrote a letter to the Queens Council expressing its opinion and its opinion was stated clearly (I was given one copy) that we had two cases. The only case that took off the agreement is leadership. The Queens Council said, “I see there are more potential grounds to separate the two cases”. On the agreement case, it was a little complicated for us. Queens’ Council advised that it would be profitable if ELC to address the leadership case first. That news gave us strength and we were happy for ELC to address Leadership case quickly.

“When we went down to the Supreme Court and appealed, as Lawyers I believe they should have known the timeframe [to file] an appeal. The National Court gave 40 days and not beyond...but they thought they can file the appeal one day after this time frame, just one day after the time Supreme Court had set. Just this one-day has cost us all our cases and this now we feel big pain. Those 40 days was big time and as lawyers, they should have prepared everything. They could have even filed it in 20 days but they waited to the last minutes...and we are not happy with that.

“At our own expenses we went down to Lae to witness the pay back charge and the result of the case was the Supreme Court ruled that because it was one day late we can’t go any further ...we could not continue and that’s was it. All our struggles and strength for so many years, we could have won, we [instead] lost. Because of the delay on the lawyer’s part we have lost everything. That is one thing that we are not happy with ELC.”

“My name is **Nathan Musa**, the elder brother of John. In my opinion, companies like RD come and operate in our midst and the way it conducts business with us landowners, I’m not happy. Asian companies like this...it has polluted our water for drinking, sting smell in the air we breathe and waste into our garden and spoils our gardens. Another thing is that RD has created a division amongst us brothers. Also there are no benefits to us landowners.... So this is one thing I see as not straight (injustice). The Government supposed to work with landowner and address this problem we have. Now RD has divided us and controls everything. Also there are a lot of unwanted pregnancies teenage girls and women from local communities and increase in the number of bastard children by RD male employees. We don’t want this. So we think such company like this, the government must not allow it to come instead it must look at developer that will respect the environment and work well with the landowners.”

Kritoe Keleba (of Nancy Sullivan and Associates, or NSA) asked, “Going back to the leadership case, currently what is the situation?”

John Musa: “The agreement we signed in 1997, we were not so clear about the content. They [RD, Provincial and the National Governments] forced our father to sign this agreement. In the agreement, our father was supposed to sign as landowner but they assigned him the title of clan leader. So this leader [status of our father] has created a loophole where RD bride members of our clan to drop my father and get this person (Iduan Aihi – Defendant Siar Case) to take my father’s place (clan leadership

position). So Iduan because he took the clan leadership [was bribed by RD] agreed to terminate that (1997) agreement.

“The government and RD Tuna (the company) did not try to look at properly at how they came about choosing this leader. They didn’t follow our traditional way of choosing a leader, they followed Western style. In the traditional style, it follows the blood, lineal line and there is always proper handover-takeover. That is when the “Kukurai” (leader) is sick or unfit for his duty, that is the time when the handover-takeover of leadership takes place. This person (new leader) must know the land boundaries, entire clan history and all these things. But this person (Induan Aihi), he does know the land boundaries; he doesn’t know the clan history and now this leadership is fake. It is only a surface leadership. The Government and RD did not look into this (customary way of choosing leaders) because they too could be involved. Also our lawyer (ELC Lawyers) did not fight good enough. Because they (ELC Lawyers) delayed and consumed more time [thus] on technical grounds we could not continue so we lost.”

Kritoe: “Now that the case is dropped, what are you thinking of doing?”

John: “One thing is that they (ELC lawyers) wrote a letter to me stating their opinion that we could not go any further. As I am only villager and when a lawyer said this to me, I’m in the darkness and I don’t know where I will go. I need to be advice so that I have good understanding of the future of this case, and the direction to move forward. So when the ELC lawyers said that we could not continue as we lost the Leadership case, we withdrew the Agreement case because they (ELC) showed us that we could not win but we are the landowners, why couldn’t ELC find another other ways\ to help us. I see ELC fail has because they have many women [lawyers] and they give excuses.... Get some best lawyer inside too. ELC must not be a training field of interns (lawyers). I see many of them are newly graduated and they do not have experience and that is why we (also ELC) lost many cases. I feel pain for the loss and I’m not happy with the ELC lawyers. I feel bad and I cry, and I believe they are just wasting their time. I believe many landowners (clients of ELC) are having the same feeling as me now because they don’t have the trust for ELC now.”

Kritoe: “Do you have anything in mind for the future of your case?”

John: “We still want to go more because we are convinced in our spirit, in our blood and in our mind, we know we are the landowners.... Why we are not being recognized? [Is it] because of the Law of the White-men they can’t recognized us [as landowners].

“If one lawyer or some lawyer are happy to pursue our case, we will be happy to work with them but not ELC, please. I know if we go with them (ELC) we will still loose many case. If they (ELC) can get good experience lawyers and they can change my opinion of ELC, I will be happy. Right now, I’m not happy and I still want to continue this case until the end (fruitful result) but how we will go about it, I’m not so sure.

“ELC told us that Environmental case is still pending. We told them to take up that case. Up until now, nothing has happened. Our water is polluted. Gardens are also

contaminated by polluted water when it floods and flows into the gardens. The air we breath is also polluted so our children are developing airborne illness.”

Nathan: “Also, part of our family who though was all right when they (Government and RD) lured them to terminate the initial agreement now realized that they have done wrong. It is a missed opportunity when they terminated the agreement because now we have lost everything including our land to the State and Company. There are no benefits for the children and the future generations.”

John: “Iduan is our small father and we have one ancestor only but they (company and the government) got him to their side through bribery. RD bought him a car (Toyota Land Cruiser open back) and the appointed him leader of our clan. Then they used him to terminate the first agreement (of 1997). Under our custom, he would not have become a leader.”

Kritoe: “Can you explain the traditional way of appointing leaders?”

John: “Through our custom, he is the last brother and his time for leader is not yet. If suppose father died (implying their father), there is another father (their father’s small brother) who would be the next to be the leader and not Induan. Also, we do not vote leaders as was the case with Induan ascending to clan leadership position. That is not our custom. When we want to choose a leader all the elderly men in the clan get together and choose the leader and later gather all the people and announce the new leader in the assembly. This has not happen with Induan when he took the leadership and we just saw the changes on the paper and we were surprised. The change of leadership was done on our back and we learned of the change after one month. My father was not there for the change of the leadership although he was the clan leader at that time. Even when they terminated the Vidal Agreement, we were not aware of it but after 30 days it was brought to our attention. When tried to dispute the termination we were advised by the State that it only be done through court. And when we took the matter to court, due to the delay by ELC lawyers, we ended up losing the case.”

Kritoe: “If you have anything to add on, I give you this time to express it.”

John: “We are still willing to fight with RD (in a legal battle) to make it (RD) aware that we are still the landowners and we must benefit: Not only us but we are thinking about the future of our children. RD has taken the land all the land including the land at Siar and it expanding its business; it wants to build international wharf at Vidal. What are we going to do?”

III. B. MUSULA

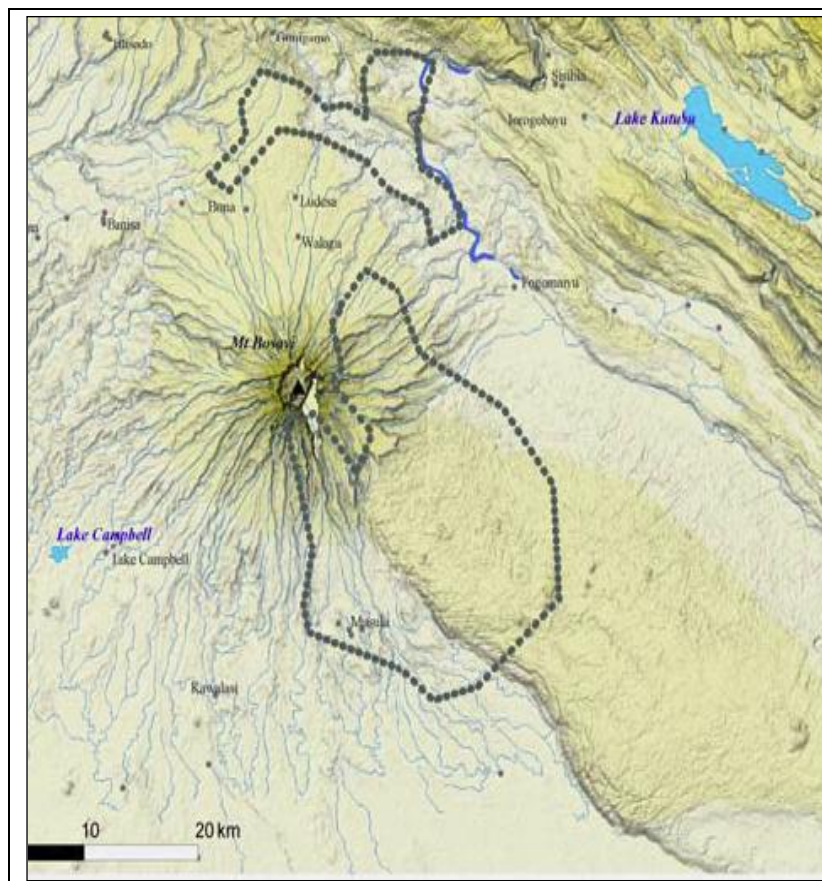
Musula Area includes the villages of Iwatubu, Musula, and Igisalebo. The RH blocks are 2 and 3. Annie engagement in this case dates back to 1995 when she was working with ICRAF and saw the area soon after RH's arrival in 1994. John danaiye had first approached a Mt Hagen law firm before finding ICRAF. WWF sent Brian Brunton in during 1996, and he gave material to John to read, promising them Annie would come to them. At that point she began studying everything related to it, to initiate the case. ELC made a report in 1999-2000, which was finished by 2002. In 2003 there was continued data collection regarding environmental damage. By 2004 the case had

begun, and by 2005 it was still in court. By 2006 they had effected a moratorium on logging for blocks 2 and 3. But the battle had only just begun.

WWF conducted paralegal training in the area in 2002 only. The ELC gave paralegal training to people at Wawoi falls and Gewai, but the people wonder what they can do with it (John reports). Sewing machines, vanilla planting, chicken farming have all been initiated with ELC and/or WWF support. WWF made a Resources centre there with a radio (which is clearly a good base for an ELC CB radio to 'piggyback' WWF infrastructure). ELC gave Community Log Monitoring training, too, but also to little effect. The community is looking for concrete results now.

Andrew Wong is the RH Operations Manager. John Danaiye said there were already 6-7 mixed Malaysian children around the camps by 2003. Malaysians are a bad line, he told us, 'taking women, fighting people, misbehaving' "They do not listen to us." John was himself imprisoned by RH workers in a container for two days and nights, so he is something of an expert on the subject.

III.B1. Map of Sulamesi Wildlife Management Area (WMA)



Sulamesi Wildlife Management Area covers area of 86,451 hectares of primary tropical rainforest. This area is restricted from human activities including, gardening. In the WMA there are pockets of protected areas. Protected areas are places like sacred sites, burial sites, and other places of cultural importance like burials sites. These protected areas are forbidden for hunting and fishing, and any development that destroys the environment.

III. B2. Musula Interviews

a. Patrick Tonaye Bate, interviewed 20th October, 2008

Patrick is an incredibly gifted young man in his thirties. He speaks 13 languages fluently, including French and English. I interviewed him on the 20th of October 2008 at his house in Musula village. He is the chairman of Sulamesi Wild Life Management Area (WMA) (see map of the area above). He has worked as a volunteer advocating conservation of the environment in his area that was under immense threat from destruction by logging companies. He has been working for 11 years now.

Patrick started with butterfly farming in 1999 as his first move towards conserving the environment. Under World Wide Fund's Conservation – Kikori River Program, workshops and trainings were run. All these were aimed at educating the people in the target areas (of the program) to be self-reliant. They taught the people about vanilla planting techniques and looking after butterflies. WWF engaged Christian Research Institute (CRI) based in Madang to give the training and run the workshops. When he attended these trainings, Patrick developed love for insects. He then developed a butterfly farm. In 1999, Patrick sold his first butterfly on two occasions and made K50.00 and K200.00 respectively. Today, Patrick has over 3000 butterflies in his farm. The world's second largest butterfly sells for K50 per butterfly.

Prior to this, between 1994 and 1997, a French couple (Florence Brunoise, an anthropologist studying in the area, and Misel Logan an artist) gave him ideas to start up butterfly farm. When asked about the prospect of butterfly farming he thought it was an incredible economic activity for rural areas. However, he mentioned that diligence and commitment is required. "I think anyone can do it but there is a lot of hard work. The good alternative is vanilla and crocodile skin."

According to Patrick, the NGOs who have worked in Musula area to date include: World Wide Fund (WWF), Environmental Law Centre, Christian Research Institute, Bismarck Ramu Group (BRG), Centre for Environmental Law and Community Rights (CELCOR), and Community Development Initiative (CDI) Trust Fund. British Broadcasting Commission (BBC) came into the area last year and made a documentary on sounds of nature and traditional music of the area.

WWF has so far initiated the following programs:

- Eco-enterprise program (basically how to engage in sustainable economic activities such as crocodile farming and cash cropping such as vanilla)
- Book keeping workshops
- Violence against women (VAW) workshops
- HIV/AIDS education.

WWF has engaged CDI to carry out these trainings and workshops as CDI has the expertise. CDI is doing some work in Kikori and Bosavi areas as part of the community empowering programs to conserve the vast rainforest areas. These works include:

- agriculture development, including vanilla farming
- fish ponds
- crocodile farming

Patrick mentioned that “ELC na WWF em trupela NGO” (ELC and WWF are true NGOs). He implied that these two NGOs are committed to serving the people in remote areas, such as his place (Musula).

Another organization that has helped the community of Musula is Seacology, of the USA. This organization helped provide the funding and equipment for building a resource center in Musula. This resource center has educational posters and pamphlets on examples of destruction by logging and mining.

Activities of ELC in the area according to Patrick include Paralegal Training, an awareness campaign to protect the forest environment, and litigation of the Wawoi Guavi case. Patrick understands that the awareness was for educating people to use enough resources and not to waste, for example, while hunting, fishing and clearing trees for gardening.

Patrick stated, “The main difficulty working with ELC is the communication problem. Without telephone or mobile network, it is hard for the people to work closely with the ELC lawyers. Also airfare is very expensive and costs lot money for lawyers to come here”.

Patrick thinks those who have attended paralegal training have not engaged in educating others. However, the environmental awareness was empowering because of the fact that some people in Musula area were already experiencing the impact of logging. Many had felt the change to the environment before and after the logging and accepted the awareness message.

Patrick mentioned that the community however has a 'handout mentality.'

In concluding remarks, Patrick said, “Whilst the people are interested in stopping the logging they must not be denied [the ability] to participate in the cash economy. They must be helped in ways that they can make money to sustain themselves economically. One way to help is to assist the vanilla farmers in the WMA area by giving them training on process quality vanilla bean after harvest, identify market for them and help them sell the vanilla.”

b. Eric Keseiyo, Ward Councilor, interviewed 22nd October, 2008

Musula Council Ward has three villages: Musula, Iwatubu and Igisolebo. This Council Ward is part of the Bosavi Local Level Government of the Southern Highlands Province. Eric expressed his support for the work of ELC, especially the Wawoi Guavi Case, “I support the work of ELC like it is working on our court case.”

Although supportive, Eric doubted if ELC was actually doing anything at all about the Wavoi Guavi case.

He also mentioned that while waiting for the case to be pursued in courts, the Sulamesi WMA area needed help to encourage the people to continue looking after their environment. Speaking as Councilor, his main concerns were about services the government failed to deliver such as building materials for schools; help setting up a health center; a community lawn mower for the school area, aid-post and church areas; and support for the youths.

Eric pointed out that there are many people in his Council Ward (of three villages) growing vanilla who need a market. His concern was that if his people are helped to conserve the environment, they must also be helped to make money through other means (*narapela rot*). “Vanilla is good; we need someone to help us with the marketing”.

With the exposure he's had outside of Musula, going as far as Mendi and Hagen, Eric recognizes the need for human resource development in his own area. However, the major obstacle he highlighted was school fees. When asked if the logging company had anything in place to sponsor the landowner children, he shrugged and said, “The company is here to just destroy and doing nothing good for the people”.

Overall, the Councilor is anti-logging. He supports the work of ELC but is concerned about the pace of at which ELC is handling the Wawoi case.

c. Musula Village Meeting 23rd October, 2008

In the village meeting I had with more than 52 people from the three villages (see list), the main concerns about the work of ELC were expressed in the question, “Why is the case taking so long?” There were frustrations amongst the members of the community regarding the delay of the case. A woman (Aunisi Oiyani) from Musula explained that “John went for a long time; and he went to court. He must come back quickly and tell us of the progress of the court case.”

The communities are supportive of ELC continuing the court case, however they want ELC to speed up. Generally their assessment of ELC was that it was extremely slow. The wife of John Danaye expressed this concern in the following way: “When I was pregnant with a baby, John left Musula. Now, the child is already big. How is that the case is not yet completed?”

This frustration was also shared by Amos the station manager of Musula mission station: “It is taking a long time and we are not hearing anything yet.” Amos was particularly concerned about John being used by ELC to pursue its own agenda, although he did not give any specific examples or evidence of how ELC was doing this.

According to the people, RH promised infrastructural development to convince the people to sign the MOA. The landowners had no knowledge of the content of the MOA. However, based on the promises, they signed. To date, the promised services

have not been delivered and they regret their decision deeply. Having seen the devastation to their environment, the people thoroughly reject logging.

ELC 's paralegal workshops and 'environmental awareness' helped them realize their rights, and prompted them to ask ELC to pursue the Wawoi Guavi case. It was evident the young population hate the logging as a destructive form of development. For many people the rainforest is their 'supermarket', where they get food freely. As one young man said, "We don't buy rice or tin fish in the stores. Our supermarket is the forest and that where we'll always get our food".

However, while the majority of the people do not like logging, some landowners are still in favor of logging because they need money. One, for example, is Amos Ulupele from Tepela clan (this clan was the first of the other clans to move into the Musula area).

Generally, the men were more concerned about the material output of the programs NGOs have implemented in the area. One Tawane (male) told me, "WWF did not give us money but helped us with setting up of the WMA." Men perceive monetary aid or physical contribution to the community such as material supply for classrooms or clinic to be more beneficial than other methods of support.

Women on the other hand are concerne about the future of their children and the coming generations. One of the women said, "The men made the decision to bring in the company and affects the environment and we all feel the impact of the destruction 'bagarap'."

d. Two women, Aunisi, 34 and Kupi, 29, interviewed 24th October, 2008

Aunisi (female, 34) mentioned that John Danaye must come home quickly because the logging is making inroads into the Wild Life Management Area (WMA). "In my place (Kamana) the clan (her husband's clan) marked a WMA but the company has come and cut the trees." She was concerned about the destruction logging was causing to their environment. That environment would be her children's livelihood. She understands the Wawoi Guavi case pursued by ELC on their behalf is in the interest of saving the environment from destruction an also protecting the communities from being exploited.

She told me, "Forest was home to ancestors in the past. Today, forest is where we get protein and other sources of food. However, our home is destroyed. Thank God, WWF has set up WMA to protect some of our land. We don't want the company to destroy our forest. We want the trees to stay and still we make money. We have crocodiles and fish, we want NGOs to help us market them and get money so ELC must win and chase the company away."

Anusi then asked, "Can WWF support us with building [a] bridge?"

The development people want to see is that which improves their life, and services the people of the area.

Kupi (female, 29) said, “First I saw [the] company come and I thought it was good. But it spoiled the environment. We saw the ‘giaman’ [fake] development like road and bridges [constructed with wood], which has now deteriorated. What we realized today is that we have made [the] wrong decision. Our livelihood is affected because we rely on the forest for many of our needs. Company gives us ten kina only for the timber. We give this money back to them at their stores.”

e. Four Teenagers: Louie Amino [19], Pale Kelley [15], Karen Thomas [16], and Sharon Bate [14] Interviewed 24th October, 2008

When asked if they knew of the training done by ELC, they said they knew nothing. In the words of Karen, “There must have been training but we’ve not heard of it.” This suggests that the information obtained through paralegal and other trainings was not passed on to the younger generation, which is extremely important for inter-generational protection of the environment. Sharon said, “Older people attend the workshop or important meetings and we youths are not involved”. Youths are apparently marginalized in major activities that can have significant impact on their lives.

Pale also said, “John Danaye must bring court money quickly home.” He held much the same hope as others that Wawoi Guavi case would bring money and satisfaction to the Musula community.

Louie Amino expressed fear that police were forcing people in the Falls (where the company was forcing people) to sign for extension of the logging. Apparently, some of the landowners have refused and were forced and threatened with guns to sign. [Lui was at the Falls two days prior].

He added, “John Danaye has sidetracked his focus from Wawoi Guavi by including [the] Kamura Doso case. The Kamura people are different, and some of them are supporting logging and there is division amongst them so it will drag our case if it is taken as one.”

These youths considered the work of ELC ‘toktok tasol’ [only words]. More so, they viewed it as ‘not good enough.’ They concluded by emphasizing that “ELC must give” – give material benefit such school material, clinic and communication network. Giving such services would (in their opinion) empower the community to reject logging.

f. Four Men: Peter Bamor, 29 – Hetage clan, Jerry Oiyani, 32 – Kirgeti clan, Thomas Apuwe, 39 – Kirgeti clan, and Hace Mulu, 25 – Kamumisi clan; interviewed 24th October, 2008

In Peter’s words, “Land owner are deprived of our rights to full benefits. We are exploited by RH and what it pays us is nothing. There are no real benefits like services.” As a result of this exploited, all landowners have supported the WMA to protect their forest from further destruction. He also mentioned, “Company has not paid for the damages of the sacred sites. There is total destruction to these places and the payment is not good.”

There is consistency in the peoples' expression of need for compensation for the damages done to their environment. There seems to be a possibility that if the company offered a lump sum, the people would be tempted to compromise.

He mentioned that the destruction to the forest has reduced their protein supply. This was a common concern of the Musula people. Protein is significant part of their diet. They can see it, feel it, taste it and of course consume it. In the people's minds, the services provided must be like the protein-- tangible, like the protein they hunt from the forest or fish from the rivers.

Jerry says logging destroyed the forest on some parts of his clan's land. He strongly supports John Danaye to win the case so that logging would stop completely.

Thomas was not happy with the company. He said, "The timber company is not good; No action from the company; and no payment for destruction of the forest and sacred sites". Thomas brings to fore the need for services and payment for the destruction of the environment, including the sacred sites. "Because of this, John must go ahead with the court case and with the case".

Hace started with, "On behalf of the future generation, I state this concern. When RH came in, it promised services such as permanent schools and health facilities, roads and bridges, which it has failed to deliver. RH told complete lies to the landowners. Then came the NGOs, they give courses that helped us changed us...our way of thinking, so now we are against the company."

Referring to the Wawoi Gaovi case, he said, " ELC came and told us to support it. ELC told us that if they win the case, those who are supporting the company will not get the money, so some landowners gave their support to ELC". Interestingly, because of the promise of money by ELC, the landowner joined.

g. Tomoiye Halia, 44 – Kama Sibise clan – Vice Chairman of Kiromobi Land Owner Company (LO company), 25th October 2008

Tomoiye is from Iwatubu village. He said, "Since 2002 I worked for the [LO] company. I talk on behalf of the people to RH to provide services, but RH failed the people. RH is destroying our environment. I talk to RH for compensation but they have refused to pay. RH has harvested 8 hectares of forest illegally on my land. This area is a buffer zone, which is restricted from logging. The company tells the Land Owner Company management to keep quite on illegal logging issues. They tell us that the National Government has already given power to the company to override. The company overpowers us, they have the police (State Police) and government on their side." In Tomoiye's words, "The company blames us (the landowners) for taking sides with ELC and WWF and say 'because of this we are not going to provide service' which is just their excuse. I tell them I don't work for NGOs, you know I'm on your side, but they still are too greedy to give us services they promised. I feel very bad about this." He explained that the company failed to provide services that had been promised if the landowners signed the agreement. "We had no education, so we didn't understand the content of the agreement--just put an X mark."

He also mentioned, "[The] forest is my supermarket."

In support of the Wawoi Guavi case he said, “ELC must continue the case and win it so the company will compensate us for all the damage it has done. Right now John Danaye included the Kamula Doso case; he must not deviate his focus; he must focus on Wawoi Guavi TRP area only.”

“I don’t believe in [the] company, my life and my children’s life depends totally on the land ...I may be seen as being on the company side, but for this case, I totally support the court case to continue.”

h. Oro Gebia, Deputy Project Manager, World Wide Fund Moro, 25th October, 2008

Mr. Gebia perceives the work of ELC in the area, especially litigation, as imperative for communities that do not have the money pursue their own case in court. “The legal service ELC is providing for the people is free and necessary because it is for a good cause.”

He emphasized that unsustainable development, including illegal businesses, like the logging in Kamusi area which is not covered in the permit, should be dealt with by the law. However, he mentioned that ELC would do better with an expert Constitutional Lawyer (if they do not already have one).

The working relation between WWF and ELC, he said, was “quite good”; but he emphasized there is a still space for more engagement. “NGOs must not work in isolation if we are pursuing the same interest. We need to work as a team”.

According to Oro, the WMA illegal logging was so high that the community (including Musula, Fokumaiyu and Bosavi) approached WWF to help protect the area. In February 2008, WWF gazette the Wildlife Management Area as a strategy to stop the logging. The idea of an WMA started in late 1990s.

He said, “Paralegal training given by ELC to the community, I believe was empowering. It strengthens the communities to recognized their rights and seek justice. From my understanding, the Wawoi Guavi [case] was the result of the paralegal training effort of ELC.”

Oro says there is low literacy in the WMA area. With the help of ELC, the communities in the logging site have established ‘buffer zones’ which logging cannot penetrate. Buffer zones are within logging permit sites and are places of cultural or historical importance for the clans. These include sacred sites, spiritual ground or waters, other sacred areas just to name a few. He concluded that ELC working is very helpful to the community who are vulnerable to exploitation given their low literacy rate.

i. Group Meeting Summary

- All except one man were anti logging. This particular man is also one of the landowners from where the company is currently logging.

- Except for this one person, all support ELC in pursuing the case.
- Virtually all do not know of the paralegal training or the Community Log Monitoring training. Only a few did acknowledge ELC's efforts in environmental awareness. However, everyone knew and understood the work of ELC in the Wawoi Guavi case and have assured their support. Nevertheless, everyone expressed concern about the slowness of the case.
- Many expressed concern that the damages done to the forest were not compensated.
- Women blamed men for making major decisions that affect the community, including development projects (this is a patrilineal society). Men are more money-centered; they perceive development in terms of money; women are more conscious of the future of their children.
- Virtually everyone agreed that services that were promised at the time of the agreement had not been delivered. A road and bridge, for example, they regarded as 'fake' (giaman) services.
- The WMA was initiated to protect the land from further logging activities. However, the company has already moved into parts of the WMA claiming that this area is covered in the agreement.

Logging has damaged the landowner's environment and they are therefore willing to defend their environment for as long as it takes. This is the root of their support for ELC, but it is strongly enhanced by the efforts of both ELC and WWF to make landowners aware of their rights in the face of resource development. As a consequence, the Musula people are justifiably suspicious of logging, and want to be adequately informed before they sign any agreement.

Communities in the Musula area, like other communities in PNG, yearn to participate in the cash economy. The people express their desire for material things, and for money. Now partially engaged in it, they are vulnerable to any kind of capitalist development, and need strong conscientious advisors.

Patrick's words are important: "Whilst the people are willing to stop the logging they must not be denied to participate in the cash economy. They must be helped in ways that they can make money to sustain themselves economically...[for example] assist the vanilla farmers in the WMA area by giving them training on process quality vanilla bean after harvest; identify [a] market for them and help them sell the vanilla."

III. B2. Musula Recommendations

- The Wawoi Guavi case must be speeded up
- An effective communication network should be established between the clients and ELC (CB radio?)
- Sustainable agriculture projects should be initiated by a local NGO, to empower the community to look after the environment

- ELC should employ an experienced constitutional lawyer

IV. CONCLUDING REMARKS

There is a lot to be critical about regarding the ELC, but none of it is catastrophic. When a law firm repeatedly loses cases and appeals on the basis of tardiness, and when the trainers go to the field with insufficient workshop materials; when clients turn to private law firms instead, you know something needs to be done.

It is our assessment that ELC needs to become more effective, to have more wins and positive outcomes; and that to do this, it needs to streamline its goals and reorganise the staff responsibilities. As it is ELC runs a law firm with an NGO mentality. It is much more important than an NGO, it is one of the two public interest environmental law firms in PNG today, at a time when the country faces enormous and imminent threats to its environment.

Out of respect and real admiration for ELC, we would recommend that it concentrate on what it does well---and can do better. What it does perfectly (education and awareness, for examples) can now be handed to others. ELC has minted the model, now it can sell it. In this critical period, the worst thing for ELC to do is to continue squandering its unique skills in efforts that come easily to them. We need their fighting know-how right now. Get a mentoring association with EDO running, and trim the fat off the operation.

Sarah told us she considered ELC's strength to be that it is “very committed to [its] court case work...because we believe that’s where we (ELC) can make a real impact and a change. If we can set precedents in our cases that’s what will help to also lead or guide other organizations in things like illegal logging or breaches of the law so that we can show them that 'no, there is a law in place'; there is a justice system... So one of our strengths is that we’ve taken a lot of cases, litigation. Another thing is that we are a small organization; I think we could achieve a lot.”

We do too.

IV.A. SPIDER DIAGRAM

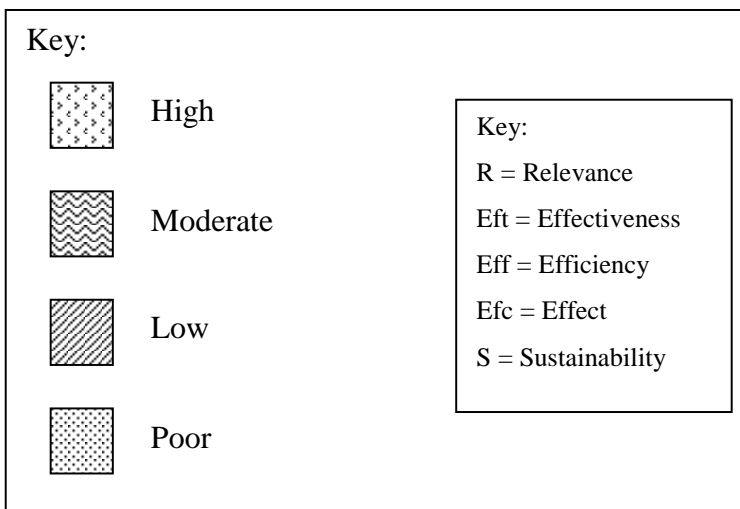
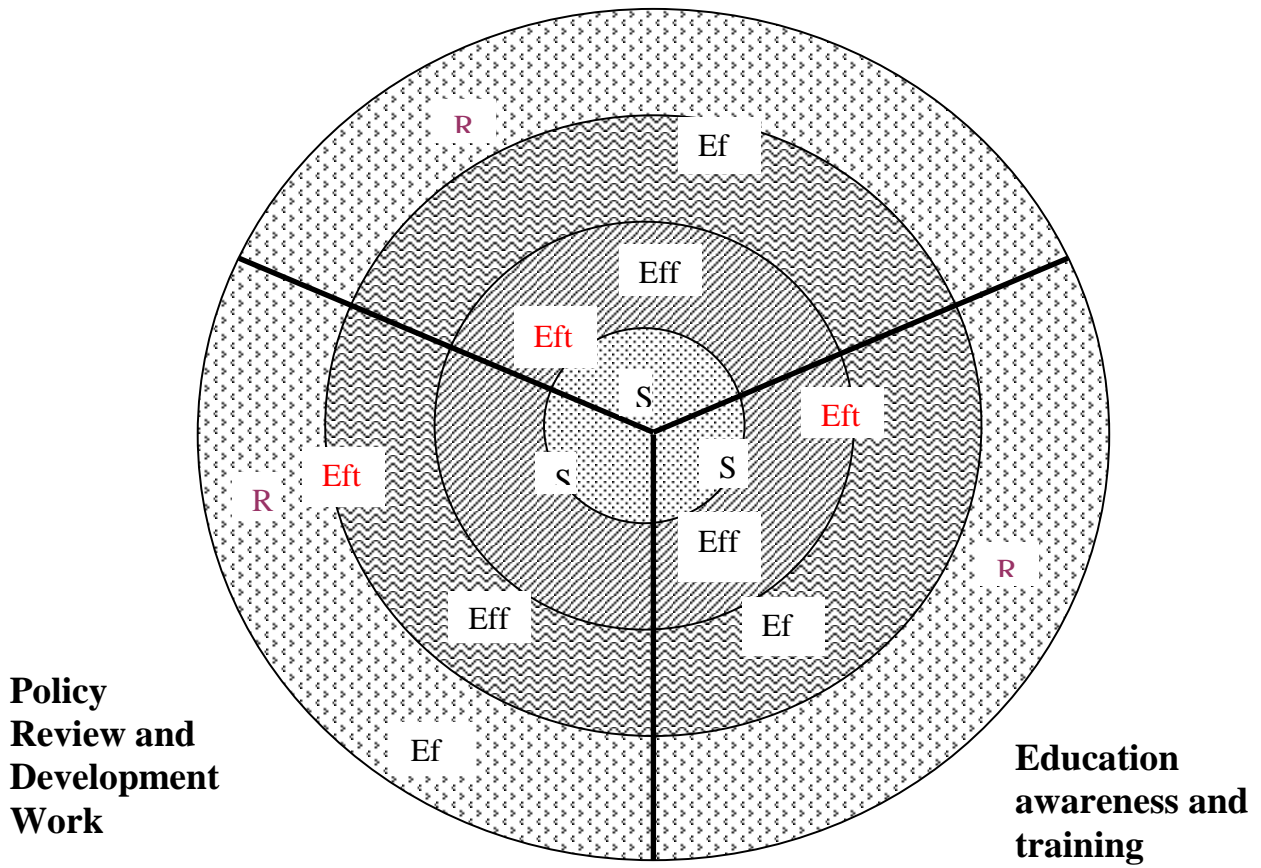
We have produced a Spider Diagram (below) to illustrate the goal hierarchy indicators for each sector of ELC's work at this time. The diagram is part of a Logical Framework Approach and simply a useful representation of the indicators. It is provisional, and not meant to be a synopsis of our review, only a handy way to view some of our comments.

The indicators are (as described in the TOR, and the LFA) are:

- Relevance - the degree to which the project can be justified in relation to local and national development priorities.
- Effectiveness - the extent to which the purpose has been achieved. Whether this can be expected to happen on the basis of the outputs of the project.
- Efficiency - how the results stand in relation to the effort expended. How economically inputs are converted to outputs. Whether the same results could have been achieved in another way. This is important in order for us to find out to what degree the outputs achieved derive from efficient use of financial, human and material resources. It means comparing inputs with outputs.
- Effect - the changes, positive and negative, planned and unforeseen of the project, seen in relation to target groups and others who are affected.
- Sustainability - an assessment of the extent to which the positive effects of the project will still continue after external assistance has been concluded.

Eft

Legal Service



Appendix

Interviewees (between 29 September and 30 October 2008):

Annie Kajir
Mary Theresa Boni
Sarah Tsiamalili
Diana Mewerimbe
Nehemaiah Naris
David Warpuai
Donald Gideon
Ken Mondiai
Brian Brunton
Lester Seri
John Danaye
Patrick Tonaye Bate
Barry Lally, BRG
Steven Sukot, BRG
John Musa, Dakham L.O. Co.
Nathan Musa
Eric Keseiyo
Amos Ulupele
Young women: Aunisi and Kupi
Louie Aminoi
Pale Kelley
Karen Thomas
Sharon bate
Peter Bamor, Hetage Clan
Jerry Oiyani, Kirgeti Clan
Thomas Apuwe, Kirgeti Clan
Hace Mulu, Kamumisi Clan
Tomoiye Halia, Kama Sibie Clan, Kiromobi L.O. Co.
Oro Gebia, WWF deputy project Manager, Moro

List of Informants at the Musula group meeting 23rd October, 2004

Sulamesi Resource Centre
Musula Village

No.	Name	Sex	Village	Clan
1	Tawane Toluba	M	Iwatubu	Kamana
2	Timothy Alowei	M	Iwatubu	Seiyesi Hii
3	Ronny Sali	M	Musula	Kuyala
4	Peter Basmo	M	Musula	Hetage
5	Tasen Amenahu	M	Iwatubu	Kamana Sipise
6	Aniye Tayalo	M	Iwatubu	Kamana
7	David Kima	M	Iwatubu	Demeta
8	Nick Isaide	M	Iwatubu	Hesge
9	John Alake	M	Iwatubu	Kamana Olepesa:
10	Robert Alowei	M	Iwatubu	Seiyesi Hii
11	Eric Keseiyo	M	Igisolebo	Kasolo

12	Sebert Kelaye	M	Musula	Demeta
13	Haina Mabulu	M	Igisolebo	Kasolo
14	Nasado Aniye	F	Iwatubu	Kamana
15	Wasiye Tawane	F	Iwatubu	Kamana
16	Pokapi Oyaneye	F	Iwatubu	Kamana
17	Mathew Halia	M	Iwatubu	Kamana Sipise
18	Susan Hebou	F	Iwatubu	Seiyesi Hii
19	Nugula Toluba	F	Iwatubu	Kamana
20	Kabaleyo	M	Musula	Kuyala
21	Gabriel Henage	M	Iwatubu	Seiyesi Hii
22	Elrica Pate	F	Musula	Kikili
23	Thomas Apuwe	M	Musula	Kikili
24	Yane Mokae	F	Musula	Batamo
25	Hage Sali	F	Musula	Kuyala Yopalasi
26	Osalowa Kelewalo	F	Igisoleba	Kasolo
27	Romax Waiye	M	Musula	Kuyala
28	Hamone Toluba	F	Iwatubu	Kamana
29	Seteya Oyaneye	F	Musula	Kamana
30	Moses Sagaiye	M	Iwatubu	Kamana
31	Judy Yawi	F	Musula	Hetage
32	Jerry Oyaneye	M	Musula	Kikili
33	John Tari	M	Iwatubu	Kamana Sipisea:
34	Lillian Ulupele	F	Musula	Tepela
35	Amos Ulupele	M	Musula	Tepela
36	Samopi Aiyago	M	Igisoleba	Hesege
37	Nelson Polotame	M	Iwatubu	Kamana Sipisa:
38	Aiyanome Nageye	F	Musula	Kapolasi
39	Danapo Pate	F	Musula	Kikili
40	Negeneme Oyaneye	F	Musula	Kamana
41	Uluwe Telepiye	M	Musula	Hesege
42	Wananowame Seyabule	F	Iwatubu	Hesege
43	Seteya Mabulu	F	Igisoleba	Kasolo
44	Arake Bosiye	M	Musula	Kamana
45	Henry Kelewalo	M	Igisoleba	Kasolo
46	Oksy Sali	M	Musula	Kuyala
47	Sepeli Keseiyo	F	Igisoleba	Kasolo
48	Taluwame Toluba	F	Iwatubu	Kamana
49	Meniyebu Sali	F	Musula	Kuyala
50	Tomai Halia	M	Musula	Kmana Sipisa:
51	Peiyonu Yagani	F	Musula	Subala
52	Prisame Seyabule	F	Musula	Hesege
53	Kupi Uluwe	F	Musula	Hesege
54	Kaila Kima	F	Musula	Demeta
55	Sam Kelaye	M	Musula	Demeta
56	Sarah Kelaye	F	Musula	Demeta
57	Iseliye Tawane	F	Iwatubu	Kikili

