

THE PEOPLE'S LAWYER

Two and half years ago I received a phone call from Australian Volunteers International. They had found jobs for us (My husband James is an engineer) in the Republic of Kiribati (pronounced Kiribas). I was to be the "People's Lawyer". What an inspiring job title . . . and it proved to be an inspiring job.

For two years we lived in this small independent country of 86,000 people, comprising 33 coral specks in the middle of the Pacific Ocean, spanning 3000 kilometres along the equator from north of Fiji to south of Hawaii.

At first there were only two private practitioners, a relatively well staffed Government law office and one People's Lawyer. As the only provider of free legal advice to the public I assisted in almost every conceivable legal problem. I was required to represent all criminal accused charged with an offence in the High Court, ranging from murder to rape to bank fraud. Other areas of law included employment, family, commercial, personal injuries, native land law and even an election petition.

Appearing in the Native Lands Court was initially the most challenging aspect of my work, not least because the entire proceedings were conducted in the Kiribati language. As the lawyer for one of the litigants, I was the only person inside the open air thatched roof meeting house who did not speak the language of the Court. My interpreter stood next to me and would translate what she could into my ear. My favourite private practitioner was a man with a sense of humour and strong instincts to do the best for his clients. He took great joy in framing his questions in Kiribati in such a complicated way that my interpreter would struggle with the translation — resulting in the answer being given well before I had any opportunity to object. I guess I now have a sense of how some Aboriginal and other people from non-English speaking backgrounds must feel when confronted with this situation in Australian Courts.

A year into my contract I was joined by two other lawyers — an I-Kiribati

graduate from the University of the South Pacific and a volunteer lawyer from the United Kingdom. At this time the newly appointed Chief Justice, Robin Millhouse QC, formerly Justice of the Supreme Court of South Australia, commenced touring to the outer islands for High Court Land and Civil Appeals.

On the outer islands life exists as it has since time immemorial. Small generators supply electricity, which is limited to short periods of time at council or church meeting houses. The majority of people live a subsistence lifestyle, eating fish, breadfruit and coconut. Cutting copra (dried coconut flesh) provides the sole income for most families, and land is therefore an important source of wealth as well as being of utmost social and customary importance.

Land disputes are a part of life for I-Kiribati and the Lands Court system introduced by the British during colonial times is the primary means by which people seek to settle these disputes. The introduction of a system of lands titles registration in 1948 dispossessed many absent families from their customary entitlements and is a source of much dissent. Similarly, land boundaries that were established at around the same time were marked using slashed coconut trees and stones. This system continues to be used, but the markings often disappear over time or are clandestinely removed. It is not uncommon for the same boundary to be determined in a number of court cases over a period of many years.

On the outer islands High Court Land and Civil Appeals are held in the council Maneaba - a large thatched roof meeting house with no walls. The arrival of the High Court is a matter of great interest to the community and the Maneabas always fill with people sitting cross legged on the floor listening intently to the cases being heard. The new Chief Justice dispensed with the requirement of wearing a wig and gown, although former Chief Justices have insisted that the full dress be worn. This must have been a bizarre and comical spectacle for the islanders in the context of the otherwise informal atmosphere. Dogs often walk between the bar table and the bench oblivious to the proceedings and women sit at the



Neil Allen and Joanne Fleer, People's Lawyers with Chief Justice Robin Millhouse QC

back weaving mats, next to huge pots of tea and baskets of food.

In contrast the High Court on the main island of Tarawa is held in a modern, air conditioned building and counsel are required to appear in wig and gown. Shoes, however are optional.

Once every two years the Kiribati Court of Appeal sits. The panel of three Judges has in previous years been an Australian team lead by Sir Harry Gibbs. In 1998 the Court consisted of Lord Cooke, Sir Gordon Bissen and Justice Penlington from New Zealand. In two days I argued seven appeals including a complex tax case, an appeal against a conviction for rape and a land appeal involving fish ponds that had subsequently dried up and become land.

Whilst the legal work was interesting and varied, the most rewarding aspect of our time in Kiribati was the relationships we developed. Volunteers like us are continually coming and going, yet the I-Kiribati welcomed us with warmth and hospitality. After two years we were ready to return to friends and family in Australia, but it was hard to leave our new friends behind.

Joanne Fleer worked at the Domestic Violence Service in Alice Springs in 1995-96 and has returned to Alice to work at Budrikis and McNamara Lawyers for three months.