

**2009 SPEECH
OFFICIAL OPENING OF THE COURTS
OF VANUATU**

THE HONOURABLE CHIEF JUSTICE LUNABEK

**His Excellency Kalkot Mataskelekele and Lady Mataskelekele
Right Hon. Edward Nipakei Natapei, Prime Minister of the Republic
of Vanuatu, and Mrs. Natapei,
Hon. George Wells, Speaker of Parliament
Hon. Ham Lini Vanuaroroa, Deputy Prime Minister & Minister of
Justice and Social Welfare
Hon. Ministers of the Government
Hon. Judges of the Supreme Court of Vanuatu and wives,
Hon. Maxime Carlot Korman, Leader of the Opposition,
Hon. Members of Parliament,
Hon. Attorney General of Vanuatu and Mrs. Kalsakau,
Excellencies Members of the Diplomatic Corps,
Magistrates and Spouses,
Public Prosecutor,
Public Solicitor,
Ombudsman, Peter Taurakoto & Mrs Taurakoto
Commissioner of the Police,
Chief Alguet Gratien, President of the National Council of Chiefs
and Mrs Alguet
Members of the Legal Profession,
Members of the U.S.P. Law Faculty,
Registrar of the Supreme Court, the Court Staff and Families,
Representative of Women,**

**Representative of the Press/Media,
Representative of the Churches,
Ladies and Gentlemen, Big Men and Women, Pikinini mo People
blong Vanuatu.**

I am very pleased to address you all on this special occasion of the opening of the Courts' session for the year 2009.

As we enter into a new legal year let me remind us all that the past years have been very challenging and trying years for Judiciary and the people of Vanuatu.

The destruction of the Supreme Court building on 7 June 2007 was a tragedy for the entire nation. The consequences of the destruction of the Supreme Court building will be felt for many years.

However, despite the destruction, the stand is and must still be the same. That is to be positive and not to dwell on the negative. Let us remember and remind ourselves about the positive steps taken collectively to move the Judiciary of Vanuatu ahead. Let us continue with that positive momentum.

After the destruction, the offices of the Chief Justice, Judges, the Supreme Court Registry and administration were relocated in a government quarter. The current relocation presents its own difficulties in terms of the space as the needs of the courts users and court administration cannot be adequately met.

In 2008, plan assessment for an extension of the current location were made to provide for an office of the Chief Justice, Judges, Master and Deputy Masters. It is important that consideration is made to the extension work of the current location of the Supreme Court as soon as possible so as to ensure that the Judges and the Supreme Court administrators provide quality services to the people they serve.

Further, as a consequence of the destruction of the Supreme Court building, the reconstruction of case files pending before the Supreme Court in Port-Vila, is still ongoing.

As you all know steps were undertaken to build a new Supreme Court building “the Supreme Court Hall of Justice”. In February 2008, a philosophical concept has been issued by the office of the Chief Justice. The New Supreme Court Hall of Justice Project has been launched on 7 June 2008 which is the first anniversary of the fire destruction.

In August 2008, tenders were issued for brief design concepts from skilled and professional architects and builders. More than 30 architect firms expressed their interest from Vanuatu and abroad. 11 tenders were received by the Central Tender Board.

The Supreme Court Hall of Justice building Committee have short listed 5 applicants. The process is still ongoing as the Central Tender Board is yet to announce the successful Architect Tender.

The current judicial reform will complement the construction of the New Supreme Court Hall of Justice building.

Some aspects of judicial reforms were the focus of the management Improvement Plan for 2008 which was produced by the Judiciary as required under the Judicial Services and Courts Act.

Under the focus point of Judicial Systems, in addition to a 3-volume Financial Standard Procedure Rules Manual launched in 2007, a Financial Operation Manual or Handbook for Administrators has been issued in July 2008.

Under the focus point of Rules and Procedures, the Review of the Civil Procedure Rules 2002 did not eventuate as planned in 2008 and will be incorporated into the Management Improvement Plan for 2009. In conjunction with Rules consideration, the Courts will continue to explore alternative dispute resolution mechanism through the appointment of court annexed mediators as an integral part of case management by the courts. The Judicial Services and the Courts Act has been amended in 2008 for that purpose.

The Human Resource Development aspect of the Management Improvement Plan for 2008 was partly achieved.

- Mr Justice Tuohy was replaced in August 2008 by the secondment of Mr Justice Nevin Dawson .
- Chief Magistrate Felix Stephen was appointed in 2008.

- Deputy Clerk of the Island Court of Efate was appointed in 2008.
- Two (2) Judges will be appointed before the end of 2009.

In addition, two Judges will be seconded by the New Zealand Judiciary for a period of 3 months each from April to October 2009.

- A Master of the Supreme Court will be appointed in 2009 pursuant to the Judicial Services and the Courts Act with the additional powers to mediate cases in the Supreme Court.
- 3 Magistrates will be appointed (2 for Vila and 1 for Tanna) in 2009.
- A Human Resource Officer and a Financial Officer and a Secretary to the Chief Magistrate's Office shall be appointed in the first quarter of 2009.

Under the focus point of institutional development, work is going on with extension of current office space, although slow, efforts should continue in 2009.

- 2008 has been a year of development for the Supreme Court library. The Supreme Court librarian, Mrs Pauline Kalo, has been collecting, cataloguing and restocking what has been lost in the fire of June 2007.
The relocation of the Supreme Court library has become urgent also as it has implications for the State Law Office (SLO) building project. So there is a need to relocate this to the current Supreme Court Office compound.
- The relocation of archives is near completion as historical archives are stored in the National Library and the current archives stored in space created in the current office compound. This should not be a target area for 2009.
- As to court building on the remote islands, Epi and Ambrym Court Houses have been furnished and are now operational.
- There is a need to build Court Houses on other islands and provinces of the Republic. The building of a Court House at Saratamata on the island of Ambae is a clear example and has to be undertaken as soon as possible in 2009.

In terms of training and development, the Judiciary will continue the training of its officers at the Law Faculty of the University of the South Pacific. A court staff was given study leave to prepare an LLB course until 2010. In addition, Vanuatu judiciary will benefit from the training

development from Pacific Judicial Development Program [PJDP] either regionally or nationally.

Vanuatu judiciary will continue to attend international and regional conferences as well as attract international programmes and assistance such as indicated by IFC and Federal Court of Australia in the field of mediation.

The Judiciary will continue to develop its relationship with the Court of Appeal of Noumea as per the Twinning Convention between the 2 courts in 2006.

The provision of Law Conference organized by the Judiciary since 1998 shall be revived. A Law Conference shall be held in Port-Vila on Friday 17 July 2009 – between Judges, Magistrates and lawyers.

As a prerequisite to quality services to the people in the language of their choice under the Constitution the judiciary has taken the step to train its staff members, magistrates and judges in the French language. This will continue in 2009.

For a judicial reform to be effective and sustained, it must be approached in an holistic way encompassing all players in the legal and judicial sectors including the police prosecutions, the public legal institutions, the Bar and the Correctional Services.

It is my view that for this to happen, the Ministry of Justice must have a national responsibility, in terms of policy and overseeing coordination between these different institutions in terms of driving relevant policies. Then the judiciary will participate fully in this exercise. At the present time, the judiciary cannot develop effective linkages because of the approach, management and control of existing legal sector institutions strengthening projects such as Legal Sector Strengthening Project which policies and directions are managed and controlled outside of Vanuatu.

What is important and in the best interest of Vanuatu is that the legal sector institutions must be strengthened and encouraged with overall drive, ownership and sustainable management and control by the Government of Vanuatu through the Ministry of Justice. Assistance is needed, required and encouraged.

This is a reaffirmation of Paris Declaration of 2005 which reflects series of key measures comprising the promotion of: drive, ownership, harmonization, alignment, managing for development results, and mutual respect and accountability. This should result in developing strategy framework in Vanuatu, aid flows aligned to national priorities, strengthen capacity by coordinating support/programmes; use Vanuatu's systems; share analysis; results oriented frameworks to assess progress of Vanuatu national development strategies and sector programmes.

The adjustment of structures and policies governing current strengthening project of legal public institutions is required so as to give the Government of Vanuatu opportunities to fulfill aspirations of people of Vanuatu as enshrined in the Constitution. It is suggested that in the process of assessment of its needs, the Vanuatu Government can conduct its own fact-finding missions to find out particulars of systems beneficial to Vanuatu situations.

As in my previous speeches, there is the suggestion that the Government seriously consider the establishment of a Law Reform Commission as a matter of centralizing and strengthening of law making processes in this country. This will enable citizens the ability to make submissions towards law making processes and expand the ability of all our parliamentarians to initiate bills for the benefit of our people and all our public institutions and civil society to make submissions to the Commission. It will also allow appropriate consultations on proposed bills to be made. It is imperative and obvious, I hope, then that the Government through the Ministry of Justice must be the central coordinating authority.

The publication of 2008 statistics reflect an achievement as part of the Judicial Reform. It encompasses the production of reliably accurate statistics and data.

It is the first of its kind in our short history and may be crude in its presentation and although may leave a lot of space yet to improve on in years to come, but it is a beginning in the right direction.

The approach taken in the compilation of these statistics is to show:

1. Total number of cases registered in 2008 in each court at different locations;
2. Total number of cases completed in 2008 by each court at different locations ; and

3. Details of the cases completed in 2008 by each court at different locations.

In providing these details, the numbers showing cases completed in 2008 include cases from previous years.

The Court of Appeal figures are for the 3 sessions in the year. The Supreme Court figures are for Port Vila and Luganville but includes cases registered and completed in other parts of the country.

The Magistrates' Courts figures are also divided into those for Port Vila and Luganville but include cases registered and completed for other parts of the country. The Island Courts figures are for all operating Island Courts around the country but excludes those from Tanna Island Court as they were not ready in time for inclusion in this publication.

When analysed and summarized, the 2008 statistics show:

1. Total number of cases registered and completed in the Court of Appeal is 37
2. Total number of cases registered in 2008 in the Supreme Court is 535
3. Total number of cases completed in 2008 in the Supreme Court is 380
4. Total number of cases registered in the Magistrates' Courts is 1556
5. Total number of cases completed in the Magistrates' Courts is 1088
6. Total number of cases registered in the Island Courts is 500
7. Total number of cases completed in the Island Courts is 292

The total number of cases affected by the resignation of a Judge in June 2008 is 149 although an undetermined number has been absorbed into the list of cases for the two Judges in Port Vila.

These cases are being managed by the remaining two Judges of the Supreme Court in Port Vila and 41 cases have been determined while the remainder are outstanding.

Some general observations:

- While it has been the case that the Court of Appeal had more civil appeal cases than criminal one, this year shows the gap closing

with 17 civil and 15 criminal appeal cases .It is also important to note that for the first time this year, the Court of Appeal decided on the questions referred by the Supreme Court in case stated in accordance to section 31[5] of the Judicial Services & Courts Act. The case stated questions were in the matter of issuance of search warrants by a Judge of the Supreme Court pursuant to the Mutual Assistance in Criminal Matters Act.

- Of all the criminal matters completed by the Supreme Court in Port Vila, offences of sexual nature make up 64%.
- 12% of criminal matters completed by the Supreme Court in Port were offences against the Dangerous Drugs Act.
- Of all the criminal matters completed by the Supreme Court in Luganville, offences of sexual nature make up 46%. This number includes cases from Penama and Torba Provinces.
- 18% of criminal matters completed by the Supreme Court in Luganville [including cases from Penama and Torba Provinces] were offences against the Dangerous Drugs Act CAP 12.
- There were two homicide cases dealt with by the Supreme Court in Port Vila and one of reckless driving causing death.
- Cases of Unlawful Entry and Theft make up 22% of all criminal cases completed by the Supreme Court in Port Vila.
- Statistics collected show 193 Applications for Domestic Violence Protection Orders were made to the Magistrates' Courts in 2008 with 39% of these applications made in Port Vila and 20% in Luganville Magistrates Courts.
- The majority of cases filed in the Island Courts are claims for child maintenance under the Maintenance of Children Act while 7 cases involving disputes over chief titles were registered in Efate Island Court and 6 registered in Island of Malampa Province. 10 of these chief title dispute cases are still pending in the Island Courts.
- Out of the 91 customary land cases pending in the Island Courts, 3 were disposed of and 88 remain.

Details of total output by the Courts are produced in a separate document issued by the Court Administration.

In conclusion, the following points are made:

1. A call on the Government of the Republic to support the Judiciary in its endeavour to implement-
 - (a) library relocation;
 - (b) the extension of the Supreme Court office current location;
 - (c) The construction of the New Supreme Court Hall of Justice.
2. A call on the Government of Vanuatu to implement the Paris Declaration on effective Aid Management and Coordinations.
3. A call on the Government of Vanuatu to support the Judiciary in its reform in conjunction with other pillars of justice.
4. A call for the establishment of a Law Reform Commission as a matter of centralising and strengthening law making process in this country.

Excellency the President, invited guests, ladies and gentlemen, I now declare the Courts Session for 2009 officially open.

Thank you for your attention.