

**2010 SPEECH  
OFFICIAL OPENING OF THE COURTS  
OF VANUATU**

**THE HONOURABLE CHIEF JUSTICE LUNABEK**

**His Excellency Iolu Johnson Abbil and First Lady**

**Hon. George Andre Wells, Speaker of Parliament & Mrs Wells**

**Right Hon. Edward Nipakei Natapei, Prime Minister of the Republic  
of Vanuatu, and Mrs. Natapei,**

**Hon. Sato Kilman, Deputy Prime Minister & Minister of Trades and  
Business Development and Mrs Kilman**

**Hon. Bakoa Kaltongga, Minister of Justice and Community Services  
and Mrs Kaltongga**

**Hon. Ministers of the Government**

**Hon. Judges of the Supreme Court of Vanuatu,**

**Hon. Ham Lini Vanuaroroa, Leader of the Opposition,**

**Hon. Members of Parliament,**

**Hon. Attorney General of Vanuatu and Mrs. Kalsakau,**

**Excellencies Members of the Diplomatic Corps,**

**Chief Magistrate, Stephen Felix and Mrs. Felix**

**Magistrates and Spouses,**

**Public Prosecutor,**

**Public Solicitor,**

**Director General and Directors of Government Departments**

**Ombudsman, Peter Taurakoto & Mrs Taurakoto**

**Commissioner of the Police, Joshua Bong**

**Chief Alguet Gratien, President of the National Council of Chiefs  
and Mrs Alguet**

**President of Law Society, Bill Bani**  
**Members of the Legal Profession,**  
**Members of the 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 give you my greetings for the New Year. Happy New Year 2010 to all of you. It is my privilege and pleasure to address you on this special occasion of the opening of the Courts' session for the year 2010.

We now enter into a new legal year and as we do we then realize that Vanuatu will be thirty years of Independence on 30 July 2010. Vanuatu is a very young nation.

In 2010, we need to ponder and look back to the good things, the bad things, the challenges and the trying times Vanuatu and its people have gone through since 1980. Once we have done this, we must reflect back on the acquisitions, values, strengths and learn from our mistakes and set new direction for the future of Vanuatu and its people.

I need to remind us about them. I will do this by reminding us about the direction set for the Judiciary in the past years.

What follow are extracts from my Official Speeches and in particular, the Chief Justice Speech of 2006 during the Official Opening of the Supreme Court in that year.

**“In the various dialogues I have had with judges, Magistrates, Justices of the Island Courts and Court personnel. I heard your pleas for they are singular, resounding and clear. Everyday, the members of the Judiciary face challenges brought about by a myriad of problems in judicial systems and procedure, institutional**

development and human resource development. This, in turn, is what impels me to vigorously pursue a reform agenda that embraces tangible projects addressing the following critical issues, namely, case congestion and delay; budget deficiencies; the need for enhancing the human resource development system; dysfunctional administrative structure and operating systems accompanied by lack of infrastructure, deficient court technologies and facilities; and the need to improve public information and collaboration with civil society. These issues cut across all reform sectors.

I admit that the Judiciary, just like any other institution, has had its high and low points. As one of the three main fountains of Government power, its performance is best measured in terms of public satisfaction. This, in turn, springs from the level of confidence the people have towards the judicial system. By and large, we have been able to maintain the people's faith in the system by upholding its integrity. In more recent times, however, more and more people have shown dissatisfaction over the justice system. The causes are many and diverse, and the Judiciary has, in fact, been certainly aware of the many challenges to its efficient performances, and efforts to address various concerns, though numerous, have been sporadic. Thus, I am confident that a proper vision and policy statement will constitute a strong foundation for the long term development of the judicial branch of the Government of the Republic of Vanuatu.

Certainly, the concerns of the justice system in general and of the judiciary in particular are impossible to disregard. Efforts to address these concerns have been vigorously pursued since 1998 which provided an environment for judicial reform. While no specific research was conducted, the findings of the Judiciary through its own needs analysis show that the judicial needs for reform is a must. Actions were taken by the Judiciary and the Government resulting in new legislation (Judicial Services and the Courts Act No. of 2000 and its subsequent amendments), the new Civil Procedure Rules of 2002, a number of special Rules in 2003, namely, Constitutional Rules, Election of Members of Parliament Rules, Election of Chiefs Rules, Probate and Administration Rules, the new Island Court Rules of 2005 (Island Court Civil Procedure Rules, Island Court Criminal Procedure Rules, Island Court Clerks Rules), the Magistrates Bench Book and other less extensive

efforts. These efforts were, however, largely uncoordinated and done in patches.

It is to be noted that the major challenges are still there and constitute an additional task for judicial reform. This raises the need for comprehensive, proactive and sustainable solutions. An encompassing vision, cognizant of the realities of the Judiciary, is indispensable in the formulation of an effective Judicial Reform Program.

For that purpose, I, as your Chief Justice, in accordance with the constitutional responsibility of the Judiciary to administer justice, I lay down the following statement as the vision and mission which the Judiciary would pursue and it will provide the guiding light for this Judicial Reform Program.

#### *"VISION OF THE ADMINISTRATION OF JUSTICE*

*A Judiciary that is independent, effective and efficient, and worthy of public trust and confidence, and a legal profession that provides quality ethical, accessible and cost-effective legal service to our people and is willing and able to answer the call to public service.*

*Elaborating on this vision is the policy statement of this vision, which enunciates the following:*

#### *POLICY STATEMENT*

*The Judiciary, as the constitutional designated arbiter of all legal disputes in our democratic system of government, must, at all times, maintain its independence and remain immune from undue influence, not at the cost, however, of sacrificing comity with the co-equal branches of the Government. It is essential that the Judiciary and the members of the legal profession, as officers of the Court, be of utmost competence and unassailable integrity.*

*As the Judiciary is meant to serve the people through the dispensation of justice, the Bench must be fully accountable to the public by remaining transparent, yet not betray those aspects of the judiciary process, which require utmost confidentiality. Members of the Judiciary and court personnel must unerringly adhere to the constitutional precept that public office is a public trust.*

***Dishonesty, incompetence, inefficiency and any form of unbecoming conduct are impermissible and will not be tolerated in the Judiciary nor in the legal profession. To that end, those who fail to meet the standards set for members of the Bench and the Bar will be dealt with appropriately.***

***The system of administration of justice must be geared to achieve the goal of delivering fair, impartial and swift justice. Hence, the core values of the rule of law, equal justice, judicial independence and the pursuit of excellence should be preserved and at all times be predominant.”***

**In pursuing the stated vision of enhancing and maintaining public trust and confidence in the country’s system of justice, and improving the contribution of the judicial system to socio-economic development and global competitiveness, the reform program will adopt and work toward fulfilling the following mission:**

**(a) SPEEDY AND FAIR DISPENSATION OF JUSTICE TO ALL**

**The Judiciary will strive to consolidate and optimize the gains from the judicial reform process towards improving the speed of delivery of judicial services and ensuring the fair dispensation of justice throughout the Islands of the Republic.**

**(b) JUDICIAL AUTONOMY**

**Judicial autonomy or independence from undue political interference in the exercise of judicial functions and decision making will be achieved if the Judiciary will attain autonomy in the generation of its resources (human, physical, financial) as well as in the management of their utilization and development. The achievement of the administrative and financial management independence of the Judiciary is one of the most important aspects of the reform process.**

**(c) IMPROVED ACCESS TO JUDICIAL AND LEGAL SERVICES**

**Reforming substantive law, jurisdictional structure of the Court, judicial system and procedures, legal education, as well as the institutional processes and resource generation strategies will be geared toward consolidating gains that will**

**increase geographical as well as financial access to judicial services particularly by the poor and other disadvantaged sectors and Islands of Vanuatu.**

**(d) IMPROVED QUALITY OF EXTERNAL INPUTS TO THE JUDICIAL PROCESS**

**The judicial system does not and cannot operate in a vacuum. Reforming the judicial system requires that the external systems that feed into the judicial process must satisfy the efficiency, quality and speed requirements of judicial decision making. This means that corresponding reforms in the systems of criminal investigation, evidence gathering, apprehension, correction, witness protection, and alternative dispute resolution must be pursued and put in place. The Judicial Reform Program will adopt a holistic and integrative approach that will address both the internal and external components of the judicial reform process.**

**(e) EFFICIENT, EFFECTIVE AND CONTINUOUSLY IMPROVING JUDICIAL INSTITUTIONS**

**The reform program will give utmost priority to the establishment of institutional structures, systems and procedures, and the generation of resources that will enhance the efficiency of the courts and support operations of judicial institutions; the capacity to achieve goals and performance targets; the capability to monitor and review performance and to plan for the short and medium terms; and the ability of judicial institutions to continuously assess and improve themselves.**

**(f) A JUDICIARY THAT CONDUCTS ITS BUSINESS WITH DIGNITY, INTEGRITY, ACCOUNTABILITY AND TRANSPARENCY**

**The enhancement and maintenance of public trust and confidence in the system of justice hinges on the dignity, integrity, accountability and transparency with which the institutions, the Justices and Judges, as well as all personnel conduct themselves. The Judicial Reform Program will pursue reforms that will provide an environment and culture that exudes respect, honesty, integrity and probity.**

**The further development, design and subsequent implementation of the various components of the Judicial Reform Program will be guided by the following principles:**

**(a) Judicial Systems Guiding Principles**

**In the review of substantive law, as well as judicial systems and procedures, a deliberate attempt will be made to determine how the existing system or the proposed reforms will result in pre-defined improvements and what their side-effects will be.**

**(i) Impartiality**

**Impartiality of judicial decision making is the key element upon which the credibility of judicial institutions rests. Reforms shall promote and improve, not diminish, either directly or indirectly, the impartiality of judicial decisions.**

**(ii) Access**

**Access to judicial services is the foundation of a effective delivery of justice to the people. Reforms promote and improve, not diminish, geographical and financial access to the courts and judicial services, especially of the poor and disadvantaged population in the Islands of Vanuatu.**

**(iii) Speed**

**Speed in the resolution of cases in the courts is the determining factor by which the efficiency of the judicial process is judged by the people. Reforms shall improve and hasten, not diminish, either directly or indirectly the speed with which cases in the courts are resolved.**

**(b) Institutional Development Principles**

**(i) Self-Governance**

**Exercise of self-governance, which involves administrative and financial management independence is the pre-condition**

to full judicial autonomy. The reforms shall ensure independence, in the internal administrative and financial management operations of the judicial organizations.

**(ii) Vertical and Horizontal Organization and Integration of Roles, Functions and Processes**

The appropriate organization of roles, activities and processes is a prerequisite to achieving efficiency in the utilization of resources and attaining organizational objectives and planned targets. The process of organization will be guided by the following:

- **Decentralization with Stronger Central Control.** The proper vertical organization of administrative functions between the Supreme Court and the lower courts shall be established, and the corresponding responsibility, authority and accountability defined. To the extent possible, administrative functions together with the appropriate resources shall be decentralized to the courts.
- **Integration.** Under the decentralized setup, the courts shall be functionally integrated by infusing them with the corresponding administrative functions, authority, accountability and resources.
- **Streamlined Formal Structure.** The clear distribution, delineation and linking of functions and work processes shall provide for efficient and effective operations and decision making.

**(iii) Transparency and Appropriate Disclosure**

The engineering of the administrative structure and operations of the Judiciary shall promote transparency while ensuring the formulation and implementation of a disclosure policy that will establish a balance between the right of the public to know and the right of the litigants to confidentiality.

**(iv) Systems-Based Operations, Information-Based Decisions**

**One of the most important challenges to organizational reform and operational efficiency is the design of operations on the basis of sound systems rather than on the availability and individual discretion of people. This requires the formulation and adoption of systems and processes, forms, technologies, reporting methodologies that are formally established and documented as standard operating procedures understood by all concerned.**

**Further, an appropriate information system is a pre-condition for organizational effectiveness in the context of huge, nationwide and complex operations. Information systems shall be built on sound performance monitoring processes and data generation systems that are useful in evaluating performance, planning and decision making.**

### **(c) Human Resource Development Principles**

#### **(i) Continuing Capacity Improvement**

**Efforts will be exerted and care will be taken such that the design of reforms and implementation of capacity building programs will institutionalize a continuing improvement capacity in all levels of the organization.**

#### **(ii) Integrity and Probity**

**Improving the administration of justice requires ensuring the quality of the members of the Bench. It also demands that the appropriate organizational and professional culture and values be put in place. This will be made possible through appropriate human resource development programs, through court procedures as well as support systems that ensure and promote a culture of transparency and accountability.**

#### **(iii) Competitive and Performance-Based Remuneration**

**The Judiciary shall work toward the adoption of an independent remuneration policy that will enable it to develop and implement a competitive and performance-based remuneration package for Justices, Judges and the rest of the Judiciary.**

#### **(iv) Fitness-Based Recruitment, Merit-Based Progression**

**Reforms in judicial appointments and promotion will be based on the principle that recruitment to the Bench will be based purely on qualifications, as well as physical and psychological fitness, while promotion to higher positions will be based on meritorious performance on the job.**

#### **(d) Reform Support Systems Principles**

**Reform support systems cover key efforts to sustain the smooth, timely and effective implementation of the entire reform program. The Judiciary will achieve broad consensus concerning the need for change and generate support for reform efforts among the Judiciary, the users of the court and the rest of society.**

**The Supreme Court acknowledges that judicial reform is a long and tedious process involving considerable planning and evaluation. At the same time, an abundance of activities does not guarantee the achievement of the ultimate objective; an effective strategy must prioritize and sequence its elements, taking into account the country's capacity to support such reforms.**

**Thus, the Judiciary will undergo a series of self-assessment discussions and consultations with other stakeholders. What is needed is an assistance in the endeavor to build a consensus among the various judicial stakeholders, from the grassroots organizations to law groups and judges, on what directions the Judiciary should take. These activities will establish the ownership of the reform efforts by the various stakeholders, including court offices and personnel. Such ownership will bring about a commitment to said efforts and is thus one of many mechanisms to ensure success.**

**Consensus-building activities will be followed by diagnostic studies to establish baseline data on the Judiciary. With the consolidation of the results of those efforts, and with the above vision as guide, the Judiciary will be prepared to take the subsequent and necessary steps for judicial reform.**

**The reforms covers at least four (4) critical areas: 1) judicial systems and procedures; 2) institutions development; 3) human resource development; and 4) reform support systems.**

**Reforms in the judicial systems and procedures shall cover: improving court managements systems, including caseload management and monitoring and evaluation; streamlining the rules of court; reengineering court jurisdictional structure; exploring alternative dispute resolution mechanisms; and strengthening the linkage with other pillars of justice including customary dispute resolution mechanisms.**

**On the other hand, reforms in the area of institution development shall address the need for fiscal autonomy and financial resources generation, and bring about significant improvements in the administrative structure and operations, infrastructure and support facilities, and information systems quality.**

**In the area of human resource development, reforms shall cover staffing and remuneration, legal education, capacity building and training and judicial appointments.**

**In the area of reform support systems, the role of public information in the delivery of justice shall be maximized and collaboration with civil society shall be encouraged.**

**While individual targets for each reform area have been identified, these activities must be integrated and structured into a comprehensive reform program that will produce tangible results. Lasting institutional change is the net effect of the combination of interrelated components rather than the impact of any single one.**

**The implementation of this action program must be understood as an evolving process, as the Judiciary continuously analyzes relationships between the various activities to arrive at more effective and efficient systems in achieving reform objectives.**

**In the final analysis, such objectives as full fiscal autonomy, continuing judicial education, are not the ends which the Vanuatu Judicial Reform Program hopes to achieve, but rather they are means to securing the ideal Judiciary envisioned in the stated vision above.”**

The above extract show the underlying principles which drove and continues to drive the Judiciary's reform initiatives.

What the Judiciary has been doing since, is the continuing efforts before 2006 and aligning these efforts with the principles announced in 2006 and on the premise laid down by the 2007 Official Speech that **"...focus will be placed on certain aspects of the abovementioned areas of reform which are quantifiable, realistic and within our resources to do."**

Management Improvement Plans for the subsequent years have all addressed the 4 critical areas:

- There was a first Management Improvement Plan launched in 2007,
- The publication of a 3 volume Financial Standard Procedure Manual,
- The exploration of Alternative Dispute Resolution through court-annexed mediation,
- The improvement of linkages with other pillars of justice, and
- Enhancing human resource development and capacity.

The Judiciary's efforts in carrying out the Judicial Reform program continued despite the destruction of the old Supreme Court building destroyed by fire on the 7<sup>th</sup> June 2007 which forced the Judiciary to be temporarily relocated and considerations of the construction of a new Supreme Court Hall of Justice, to which I will return as a specific and special focus of my Speech today.

The Judiciary's Management Improvement Plan for 2008, under the focus point of Judicial Systems, a Handbook for Administrators was published to operationalize the 3-volume Financial Standards Procedures.

Focusing on Judicial Systems, the Judiciary successfully used the Microsoft Excel Spreadsheet to collect information on the registration, completed and pending cases in all the courts.

Other aspects of the Judicial Systems that were planned for 2009 were not achieved but need to be refocused on in 2010, such as the construction of a comprehensive database system to facilitate case management.

Under focus point on Rules and Procedures, the review of civil procedure rules have started with receipt of comments and observations from lawyers and judicial officers but need to be substantiated and continued. The Judiciary embarked on a pilot project, in conjunction with the World Bank, to trial court-annexed mediation. This effort culminated in the training and sanctioned with the accreditation of 14 mediators. The Judiciary has published an internal administrative procedure in the registry and central administration of the courts, after consultation across the judiciary, in November 2009.

In terms of Human Resource Development:

- Judge Dawson secondment was extended to end August 2010
- Judge Daniel Fatiaki was appointed in August 2009
- 2 New Zealand District Court Judges were seconded to the Supreme Court each from April to October 2009, namely Justice Butler and Justice Clapham.
- A Judge of the Federal Court of Australia, was seconded to the Supreme Court of Vanuatu for a period of 3 weeks in September 2009.
- A Master of the Supreme Court was appointed in mid- 2009
- 5 Magistrates were promoted to Senior Magistrates positions
- Magistrate Beverley Kanas was appointed.
- Late Helen Aru was retired on medical grounds and died in November 2009
- A Human Resource Officer was recruited
- A Financial Officer, to assist the Accountant, was recruited
- The secretary to the Chief Magistrate was recruited
- Evelyne Hopkins, Island Court clerk for Torba was retired

Under the focus point of Institutional Developments, the current temporary office space is substantively renovated and extended to create ample space for the Supreme Court library, the Chief Justice Conference room, two Judges' Chambers and one office of the Master of the Supreme Court and a public waiting space outside the Supreme

Court counter. Two public toilet facilities were built. Space was created to hold current archive files of the Courts. These spaces were operational in 2009. Additional expansion of space began in late 2009 and shall be operational in February 2010. They include Efate Island Court office extension, Sheriff office creation, 6 office spaces and two Chamber spaces for short civil applications and hearings. The extensions of space will enable the completion of relocation of historical and current archive files from the old site.

After reflections on the underlying principles and brief reporting on 2009 year, this year 2010, although will be dominated by the new Supreme Court Hall of Justice building project as it launches into year one of the project cycle, I want to emphasize some fundamental needs of the people of Vanuatu to obtain affordable and access to justice. Access to justice is not possible without physical access to judges. The people's right to access to justice is non existent if there is not physical infrastructure in court buildings, facilities, equipment and systems to support the judicial function of delivery of justice.

The project for the new Supreme Court Hall of Justice building in Port Vila has, as recently as yesterday, received the Government of Vanuatu endorsement, which will see the implementation of its initial stages in the next few months of this year.

The previous processes in this project was the subject of my Official Speech at the Opening of the Supreme Court in 2009. Tenders were invited, 11 tenders were received by the Central Tender Board, a stringent evaluation of the tenders was conducted by the Supreme Court Hall of Justice building Committee, and a recommendation was made to the Central Tender Board. A decision by the Central Tender Board was adjourned pending funding commitment to be indicated by the Vanuatu Government. The Vanuatu Government has since given that intention. On that basis, the Supreme Court Hall of Justice building committee resubmitted to the Central Tender Board who then issued a decision which was endorsed by the Council of Ministers in its decision No. 01 of 2010, a copy of which is provided to the Chief Justice Office.

This now means that the Judiciary is now in a position to progress with the decommissioning of the location of the new Supreme Court Hall of Justice building; this means the preparation of the site, clearing it and removing structures on the site. This will be undertaken in February 2010. In February/March 2010, a ground-breaking of the site will take happen, the details of which will be finalized in consultation with the

Ministry of Justice and Community Services. It will be at this special occasion that I look forward to reiterate the philosophical design concept of the new Supreme Court Hall of Justice building and refocusing on the project management team, its role and lines of responsibilities in the governance structure of the project, in line with the Hall of Justice Funding Committee created by the Council of Ministers in the same decision of 28 January 2010.

The new Supreme Court Hall of Justice building is envisioned to last for the next 50 to 100 years. While the new Supreme Court Hall of Justice building will be focus of implementation in 2010, I also have grave concern that consistent and ongoing quality services must be provided to the people of Vanuatu, and more specifically, in the rural areas. For that to occur in acceptable conditions, I need to point out to the government and the members of Parliament and the members of the public that the majority of the **court buildings and residences of judicial officers and court support staff need full repairs and maintenance.**

- Tanna
  - i. Court house, located at Isangel, need urgent need on the roof structure and general repair. It needs to be protected by fencing to render it safe for officers and staff.
  - ii. Magistrate's residence need proper repair and maintenance and furnishing.

In February 2010, a Senior Magistrate is expected to be transferred to Tafea magistracy and to reside on Tanna island.

- Tongoa
  - i. Court house, located at Morua, needs general repairs and maintenance. There is a need to fence it so as to render it safe and protected.
  - ii. Island Court clerk residence need drastic and full repair and maintenance and creation of sanitation facilities for the court and the public.
- Vanua Lava
  - i. Court house, located at Sola needs general repairs and maintenance with proper sanitation facilities for the member of the public.
- Epi

- i. Court house, located at Rovo Bay become operational in 2008. That court needs proper sanitation facilities for the court staff and court users.

- Ambrym

- i. Court house, located at Graig-cove become operational in 2008. That court needs proper sanitation facilities for the court staff and court users.

The further point to mention is in the logic of building of the new Supreme Court Hall of Justice in the capital to represent the authority of the judicial arm of the government, it is also important, that for the Vanuatu people and citizens living in islands other than Efate, the need to have the right of access to justice, and for that to happen, they need to have access to the court buildings and to the judges in proper functioning and equipped courts, and not just by means of court circuits but by properly constructed court buildings and well-equipped facilities functioning support equipment and systems.

For the service of justice for the people of Vanuatu in the rural and urban centers, and in the remote islands, to be effective and efficient, it is important to understand the following:

1. The first step is creation of central court buildings and infrastructures with appropriate and adequate equipment and trained support staff to man those court buildings, in Port Vila city and provincial centers in the 6 provinces of the Republic.
2. Once these central court infrastructures are established, consolidated and operational, we can provide services across all islands of the Republic in a horizontal perspective line of approach analysis. This will enable the courts to service people living far from the centers as the central structure is well established and consolidated. Justice is brought to the people wherever they live in the Republic. This is what is commonly referred to as 'service delivery' to rural population.

It is part of my commitment to see that this happens in the following provincial centers [where there is none]:

These include:

1. Santo

- a. A court building to house the Supreme Court, Magistrates Court and Island Court in Luganville, Santo;
- b. The Supreme Court Judge official residence; and
- c. Two Senior Magistrates' official residences.

## 2. Ambae

- a. Court house – since some years now, attempts were made by the judiciary to secure pieces of land in order to build a court house and residences of court staff at Saratamata, Ambae. Those attempts were unsuccessful. Citizens of Vanuatu living on the island of Ambae have the same right to have access to justice as those living in Port Vila city. This observation is so fundamental and the Judiciary need government support at national and provincial level in the allocation of land to build a well-equipped court house and residence of an officer and court support staff. Penama province is the only province where there is no court building at its headquarters at Saratamata.

## 3. Pentecost

- a. Court house – there is a need to build a court house on the island of Pentecost. Currently there is an island court clerk, located on this island and operates out of a former local government accommodation. The court's operation on this island is facilitated by a boat donated by the French government in 2009.

## 4. Torres

- a. Court house – there is a need to build a court house on an island in the Torres group of islands. A piece of land has been identified to build a court house on the island of Loh. I call, again on the government, to assist the judiciary, to build a court house, for the citizens of Vanuatu who reside in the Torres island group, to have access to justice through that court and its facilities.

## 5. Aneityum

- a. Court house – the judiciary needs to help of the government to identify an appropriate piece of land on this island to build

a court house. Again, for the citizens of Vanuatu living on that island to have access to justice through that court.

I need to observe and inform that we have eleven established island courts out of which, seven are fully operational island courts. We have currently a total of 253 island court justices serving the island courts throughout the Republic.

**In addition to building repairs and maintenance, the need for new court building, and despite budget submissions for 2010, two high priority needs for 2010 must be explored. The need for two 4x4 hilux vehicles, to adapt to the needs of the rural setting, for the court office in Malekula, where there is a resident Senior Magistrate, and the court office in Tanna, where there will be resident Senior Magistrate soon, as I mentioned.**

**There has been zero budget appropriated for these needs.**

In terms of Human Resource Development, it is planned to recruit for 2010 the following positions:

- 2 additional Judges for the Supreme Court
- The term of secondment to the Supreme Court of Vanuatu, for Judge Nevin Dawson, a New Zealand District Court Judge will expire at the end of August 2010. A replacement of his secondment is expected to be finalized in July 2010.
- The regime established between the Supreme Court of Vanuatu and the District Court of New Zealand for 3 month secondment period of a Judge to Vanuatu will still continue in 2010. Arrangements will be put in place for that to happen between the two judiciaries.
- The term of the Master of the Supreme Court will come to an end in mid-August 2010. It is incumbent that a deputy Master of the Supreme Court is appointed so as to ensure that before the expiry of the term of the current Master of the Supreme Court, the functions of the Master of the Supreme Court, covering mediation, which is essential and integral as part of case management before the courts is continued and maintained.
- A deputy Registrar of the Supreme Court will be considered and appointed in 2010.
- Magistrates Courts

- i. A senior Magistrate will be transferred and posted and to reside at Isangel, Tanna. This will happen by February 2010.
  - ii. Senior Magistrate Rita Naviti has been temporarily posted to Luganville Magistrates court to replace Senior Magistrate Jimmy Garae who is on long-service Leave until April.
  - iii. A maximum number of 2 Magistrates will be appointed in 2010.
  - iv. An Assistant Registrar of the Magistrates court will be appointed to the Lakatoro court office.
- Island Courts
    - i. 4 new island court clerks will be appointed in 2010 in the following island courts:
      - a. Tongoa Island Court;
      - b. Epi Island Court;
      - c. Ambrym Island Court; and
      - d. Banks Island Court [Vanua Lava]

Before I conclude my speech, I will now refer to you some important statistics data, the detail of which will be supplied in a separate publication.

Since the publication of 2008 statistics, the first of its kind, the Judiciary has made further improvements, using Microsoft Excel Spreadsheet, to collect, store and retract accurate information in the Supreme Court, the Magistrates' Court, and the Island Courts.

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

1. Total number of cases registered in 2009 in each court;
2. Total number of cases completed in 2009 by each court; and
3. Total number of cases pending as at 31 December 2009 in each Court, showing the total pending cases in the whole court system.

It is important to note that:

- the number of completed cases include cases filed before 2009; and
- the number of pending cases include cases filed before 2009.

## COURT OF APPEAL 2009

<b>CATEGORY</b>	<b>CASE TYPE</b>	<b>No.</b>	<b>Total</b>
TOTAL CASES REGISTERED IN 2009	CIVIL	15	20
	CRIMINAL	5	
TOTAL COMPLETED CASES IN 2009	CIVIL	20	29
	CRIMINAL	9	
TOTAL PENDING CASES	CIVIL	9	10
	CRIMINAL	1	

### High profile cases:

- **CAC No. 9 of 2009 – Hon. Moana Kalosil Carcasses –v- Republic of Vanuatu**
- **CAC No. 17 of 2009 – Guy Bernard –v- Government of the Republic of Vanuatu**
- **CRAC No. 17 of 2008 – Public Prosecutor –v- Sam Koilo**
- **CAC No. 24 of 2009 – Maxime Carlot Korman –v- Edward Nipake Natapei**
  
- **Total number of Civil Appeals registered in 2009 is 15**
- **Total number of Criminal Appeals registered in 2009 is 5**
- **Total number of Appeal cases registered in 2009 is 20**
  
- **Total number of Civil Appeals completed in 2009 is 20**
- **Total number of Criminal Appeals completed in 2009 is 9**
- **Total number of Appeal cases completed in 2009 is 29**

- **A total of 5 Civil Appeals and 4 Criminal Appeals were from 2008**
- **Total number of Civil Appeals pending is 9**
- **Total number of Criminal Appeals pending is 1**
- **Total number of Appeal cases in 2009 is 10**

## **SUPREME COURT 2009**

<b>CATEGORY</b>	<b>CASE TYPE</b>	<b>No.</b>	<b>Total</b>
TOTAL CASES REGISTERED IN 2009	CIVIL	304	427
	CRIMINAL	123	
TOTAL COMPLETED CASES IN 2009	CIVIL	471	657
	CRIMINAL	186	
TOTAL PENDING CASES	CIVIL	329	453
	CRIMINAL	124	

### **General Observations:**

- Total number of registered Civil Cases in 2009 is 304
- Total number of registered Criminal Cases in 2009 is 123
- Total number of registered cases in 2009 is 427
- Total number of completed Civil Cases in 2009 is 471
- Total number of completed Criminal Cases in 2009 is 186
- Total number of completed cases in 2009 is 657
- Total number of pending Civil Cases as at 31 December 2009 is 329
- Total number of pending Criminal Cases as at 31 December 2009 is 124
- Total number of pending cases as at 31 December 2009 is 453
- Total number of cases referred to Master for mediation is 21
- Total number of mediation completed by the Master is 10

- Remaining mediation cases listed for February to March 2010 is 11.

### **Out of the completed criminal cases:**

- 10 involved children of 15 years or younger as victims of sexual offending representing a 5% of total completed criminal cases in 2009.
- Total number of offenses of sexual nature is 132 representing a 70% of total completed criminal cases in 2009. It is important to note the geographical spread of these case: 90 of these offenses of sexual nature were completed in Port Vila, while 31 were recorded in Luganville, and 11 in the Isangel registry.
- 34 involved offenses under the Dangerous Drugs Act, representing 18% of total completed criminal cases in 2009.
- 12 were offenses of Intentional Homicide, Intentional Assault causing death and Careless driving causing death, representing 6 % of total completed criminal cases in 2009

### **Out of the completed civil cases:**

- 7 involved applications under s.39 of the Customary Land Tribunals Act, representing 1% of total completed civil cases in 2009.
- 65 involved land leases, representing 13% of total completed civil cases in 2009.
- 28 involved employment issues, representing 5% of total completed civil cases in 2009.
- 10 were Constitutional Applications, representing 2% of the total completed civil cases in 2009

### **Other general observations:**

- When comparing total number of cases registered in 2009 which is 427 cases, and the total number of cases completed in the same period, which is 657 cases, the Supreme Court clearance rate is 153%
- Using the same calculation, the clearance rate for Civil Cases is 154%, while the clearance rate for Criminal Cases is 151%
- 26 Customary Land Appeal Cases are still pending in the Supreme Court.
- Judge Butler disposed of 38 cases in the 3 months that he was with Supreme Court
- Judge Clapham disposed of 33 cases out of the 76 cases he was allocated in the 3 months he was with the Supreme Court
- Judge Lander disposed of 5 long outstanding cases out of the 10 he was allocated, in the 3 weeks he was with the Supreme Court.

### **MAGISTRATES' COURT 2009**

<b>CATEGORY</b>	<b>CASE TYPE</b>	<b>No.</b>	<b>Total</b>
TOTAL CASES REGISTERED IN 2009	CIVIL	364	959
	CRIMINAL	595	
TOTAL COMPLETED CASES IN 2009	CIVIL	381	1392
	CRIMINAL	1,011	
TOTAL PENDING CASES	CIVIL	259	590
	CRIMINAL	331	

#### **General Observations:**

- Total number of registered Civil Cases in 2009 is 364

- Total number of registered Criminal Cases in 2009 is 595
- Total number of registered cases in 2009 is 959
- Total number of completed Civil Cases in 2009 is 381
- Total number of completed Criminal Cases in 2009 is 1,011
- Total number of completed cases in 2009 is 1,392
- Total number of pending Civil Cases as at 31 December 2009 is 259
- Total number of pending Criminal Cases as at 31 December 2009 is 331
- Total number of pending cases as at 31 December 2009 is 590

#### **Out of the completed cases:**

- 84 Domestic Violence Protection Orders were issued in Port Vila, 23 in Luganville, 1 at Lakatoro, Malekula and 4 at Isangel, Tanna.
- Out of a total number of 139 Applications, 112 Domestic Violence Orders were issued, mainly in the two main urban centers. This figure represents 29% of the completed Civil matters in the Magistrates' Courts in 2009.
- The total number of Applications for Domestic Violence Protection Orders, of 139, show a decrease when compared to 193 Applications in 2008.

#### **ISLAND COURT 2009**

<b>CATEGORY</b>	<b>CASE TYPE</b>	<b>No.</b>	<b>Total</b>
TOTAL CASES REGISTERED IN 2009	CIVIL	Child Maintenance – 236 Others - 225	461
	CRIMINAL	0	
TOTAL COMPLETED CASES IN 2009	CIVIL	Child Maintenance – 194 Others - 151	352
	CRIMINAL	0	
	CUSTOMARY LAND	7	

TOTAL PENDING CASES	CIVIL	Child Maintenance – 260 Others - 104	447
	CRIMINAL	0	
	CUSTOMARY LAND	83	

**General Observations:**

- There has been a complete lack of prosecution of relevant criminal matters in the Island Courts.
- Claims for Child Maintenance, under the Maintenance of Children Act forms the bulk of the work registered, completed and pending in the Island Courts.
- Total number of Child Maintenance claims registered in 2009 is 236
- Total number of other Civil claims registered in 2009 is 225
- Total number of cases registered in 2009 is 461
- Total number of Child Maintenance claims heard in 2009 is 194
- Total number of other Civil claims disposed of in 2009 is 151
- Total number of Customary Land cases heard in 2009 is 7
- Total number of cases heard in 2009 is 325
- Total number of Child Maintenance claims pending as at 31 December 2009 is 260
- Total number of other Civil claims pending as at 31 December 2009 is 104
- Total number of Customary Land cases pending as at 31 December 2009 is 83
- Total number of cases pending as at 31 December 2009 is 447
- Among the civil claims, a total of 18 claims to custom Chief titles and names were registered in the Island Courts in 2009, mostly in the Malekula Island Court and Efate Island Court.

His Excellency, distinguished guests, ladies and gentlemen and people of Vanuatu, it is now my honor to declare the Courts session for 2010 officially open.

Thank you for your kind attention.