

2012 SPEECH
OFFICIAL OPENING OF THE COURTS
OF VANUATU

THE HONOURABLE CHIEF JUSTICE LUNABEK

His Excellency Hon. Dunston Hilton, Acting President of the Republic and Speaker of Parliament & Mrs Dunstan

Hon. Sato Kilman, Prime Minister of the Republic of Vanuatu, and Mrs Kilman,
Hon. Charlot Salwai, Minister of Justice and Community Services and Mrs Salwai

Hon. Judges of the Supreme Court of Vanuatu,

Hon. Ministers of the Government

Hon. Edward Nipakei Natapei, Leader of the Opposition,

Hon. Members of Parliament,

Hon. Alatoi Ishmael Kalsakau, Attorney General of Vanuatu and Mrs Kalsakau,
Excellencies Members of the Diplomatic Cooperation and Development Missions,

Chief Magistrate, Stephen Felix and Mrs. Felix

Magistrates and Spouses,

Public Prosecutor,

Public Solicitor,

Director Generals and Directors of Government Departments

Ombudsman

Commissioner of the Police, Joshua Bong

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

Justices of the Island Courts

President of Vanuatu Law Society, Mr 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 Churches,

Participants to Law and Justice Sector Strategies Summit,

Representative of the Press/Media,

Ladies and Gentlemen, Big Men and Women, Pikinini mo People blong Vanuatu.

Good Morning.

I bring Greetings from the Judges, the Magistrates, the Island Court Justices and courts support staff of the Judiciary of the Republic of Vanuatu. Happy new year 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 2012.

As we enter into a new legal year. 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 in the past years. Once we have done this, we must reflect back on the acquisitions, achievements, values, strengths and weaknesses. We must learn from our mistakes and set new directions for the future. I do this by reminding us about the direction set for the Judiciary in its vision, policy statement and judicial reform missions because the needs of the judiciary for reform and consolidation as an institution is still great and will be part of a national reform effort with the scope of its independence and core function.

The Judiciary has been part of the comprehensive reform called for in 1997 by the Comprehensive Reform Programme of the public sector. It has been participated in the review of the CRP. In 2009, the judiciary participated fully in the efforts to have the current Law and Justice Sector Strategy, at Bokissa island. It is also part of the review of these strategies and working with other players in this sector to find a way forward at Mele village which has just ended yesterday. As a reminder, we envision for:

"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 or 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, prosecutions, 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 Judiciary with the assistance of the Government of the Republic and others, will continue with its reform developments focusing on 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, court infrastructures 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.

The Judiciary of Vanuatu is continuously exploring opportunities internally and externally to assist in the implementation of the reform program launched by the Chief Justice in 2006.

There has been strong and committed assistance from the Government of Vanuatu through the operations of the Judicial Service Commission in the area of Human Resource recruitment. This has enabled the Judiciary to recruit Administrative officers, as well as Sheriff staff and Island Court staff. The Government of Vanuatu has assisted, through the Judicial Service Commission to support the regime of secondment of New Zealand District Court judges to the Supreme Court of Vanuatu.

This effort to continuously find ways to improve the effectiveness of the Judiciary was implemented through the Ministerial Budget Committee which received and approved the Judiciary budget bid to embark on these recruitments. The Government of Vanuatu has been very helpful in these respects.

The Judiciary has also benefitted from external sources of assistance. One of these external and beneficial relationships has been with the Pacific Judicial Development Programme, a regional cooperation programme which is funded by NZaid while managed by the Federal Court of Australia. Through this programme, the Vanuatu Judiciary has had the benefit of an audit of our administrative systems and processes. A final report on this study is yet to be presented to the Office of the Chief Justice, but our discussions with the PJDP consultant who did the audit indicates that the continuing reform will affect the areas of structure and management, strategic and operational management, monitoring and evaluation, human resource management, case management, governing literature, information and records management, information and communication technology, networking, accommodation and gender, human rights and sustainability.

In terms of structure and management, the reform of the Judiciary will strengthen the management and corporate services so that there is quality and strategic control while at the same time enhancing ability to be able to operate in a concerted way forward to achieve established goals and objectives.

For Strategic & Operational Management reform, the use of standing committees system will be utilized. An effective communication policy is encouraged and a team approach to management will be strengthened.

In terms of Governing Literature, the pressing need for the Judiciary is a Procedure Manual.

These are but some of the potential reforms that the systems audit report will point us towards considering and implementing. Amongst the most pressing need of the judiciary that is identified by this study but is also obvious is the need for technology based system which will assist with case management and producing comprehensive reports

The Judiciary is slowly but surely implementing small changes and considering other changes to its operations and management within the parameters of the guiding principles and underlying principles which underpin the reform process.

In 2012, focus will be placed on certain aspects of the abovementioned areas of reform which are quantifiable, realistic and within the availability of our resources and assistance.

The first focus is on judicial systems and procedures:

- There is a need to put in place a caseload management, monitoring, tracking and evaluation system;
- A database system with specific reports and enter all data;
- A need to properly put in place an operational court staff manual pursuant in line with the Judicial Services and the Courts Act of 2000.

- There is a need to review various parts of the Rules which have been identified over time.
- A special area for consideration is to follow up on the changes in legislation and rules to allow for development and consolidation of mediation as ADR for case management by the Master of the Supreme Court of Vanuatu who also mediate cases a part of the case management in the Supreme Court.

The second focus is on Development in Human Resources.

Need more Judges of the Supreme Court.

The position of the Master/Mediator of the Supreme Court is vacant.

The third focus is on Institutional Developments. In this regard, the Judiciary can only do what it can with its budget to repair court offices and court tied houses and purchasing new office equipment and replacing few vehicles and other minor maintenances.

Priority Areas for consideration for 2012.

While there are many and varied areas that the Chief Justice and the Judiciary need to be concerned about, some of them are not as pressing as others. Below are three areas of concern which should be considered of high priority because they impact directly with the efforts of reforms to maximize efficiency and effectiveness, and the strengthening of institutional framework and the confidence in the system of justice.

1. Delays in the disposition of cases.

This is an area of concern because it is an areas specifically addressed in the Underlying Principles and the Guiding Principles as marking the efficiency and effectiveness of the operations of the Courts.

This concern brings out the real need of the Judiciary to have more Judges appointed to the Supreme Court Bench. It is a foremost intention of the Judiciary to have more ni-Vanuatu Judges appointed. It has advertised Judgeship positions in the not-too-distant past, but no interest of note was expressed from the local Bar. It has become clear that the position is not attractive. The need of the Judiciary is for the Government of Vanuatu to review the terms and conditions of the office of a Judge to make it attractive so as to attract and retain quality and competent persons. In addition to this, internal measures will be put in place to deal with these pending cases.

In respect to custom land disputes, a special regime will be put in place; at least 2 Senior Magistrates will be given Warrants to preside over these matters in the Island courts for 2012.

2. The Courts Accommodation in Luganville

There is urgent need for proper Courts accommodation in Luganville, Santo after the fire destruction of September 2011. The Courts are currently operating in very trying conditions.

3. The new Supreme Court Hall of Justice

It is imperative that the Vanuatu government commit itself to the new Supreme Court Hall of Justice building project. It is an important national project that will require the continuous commitment and leadership of the government in partnership with the Judiciary. This is a call to the government of Vanuatu to drive the project and a call to Vanuatu's development partners to assist the government of Vanuatu in this project.

4. New Court Buildings in the Provinces

It has been the plan of the Judiciary to have court buildings in more islands of the archipelago. One of the Provinces, from which hails many lawyers of the country, is PENAMA Province. It is also important to improve the access to justice by building court houses in the Torres Group, in the north, and on Aneityum island in the south. The people of Vanuatu living in these islands have the same right of access to justice as any other people living in the urban centers or any other part of the country.

5. Finalisation of MOU between Supreme Court of Vanuatu and Federal Court of Australia.

In addition to the relationships and arrangements the Supreme Court has established with other courts in the region and internationally (Court of Appeal of Noumea-New Caledonia, New Zealand...), I need to inform that the Supreme Court of Vanuatu is in the process of finalizing a Memorandum of Understanding (MOU) on Judicial Cooperation and Judicial Development Programs with the Federal Court of Australia with likely funding assistance from AUSaid. The Federal Court of Australia will assist Vanuatu Supreme Court to manage the implementation of the MOU.

Before I conclude my speech, I will refer now to some important statistics data, the details of which will be supplied in a separate publication (Reference made).

His Excellency the President, Distinguished guests, ladies and gentlemen and people of Vanuatu, it is now my honor to declare the Courts Sessions for 2012 officially open.

Thank you for your kind attention.